

## SCHEDULE 1

Regulation 11

### Ineligible service charges

## PART 1

### Service charges other than for fuel

#### Ineligible service charges

1. The following service charges shall not be eligible to be met by housing benefit—
  - (a) charges in respect of day-to-day living expenses including, in particular, all provision of—
    - (i) subject to paragraph 2 meals (including the preparation of meals or provision of unprepared food);
    - (ii) laundry (other than the provision of premises or equipment to enable a person to do his own laundry);
    - [<sup>F1</sup>(iii) leisure items such as either sports facilities (except a children's play area), or television rental, licence and subscription fees (except radio relay charges and charges made in respect of the conveyance and installation and maintenance of equipment for the conveyance of a television broadcasting service);]
    - (iv) cleaning of rooms and windows except cleaning of—
      - (aa) communal areas; or
      - (bb) the exterior of any windows where neither the claimant nor any member of his household is able to clean them himself,  
where a payment is not made in respect of such cleaning by a local authority (including, in relation to England, a county council) or the [<sup>F2</sup>Welsh Ministers] to the claimant or his partner, or to another person on their behalf; and
    - (v) transport;
  - (b) charges in respect of—
    - (i) the acquisition of furniture or household equipment; and
    - (ii) the use of such furniture or equipment where that furniture or household equipment will become the property of the claimant by virtue of an agreement with the landlord;
  - (c) charges in respect of the provision of an emergency alarm system;
  - (d) charges in respect of medical expenses (including the cost of treatment or counselling related to mental disorder, mental handicap, physical disablement or past or present alcohol or drug dependence);
  - (e) charges in respect of the provision of nursing care or personal care (including assistance at meal-times or with personal appearance or hygiene);
  - (f) charges in respect of general counselling or of any other support services, whoever provides those services;
  - (g) charges in respect of any services not specified in sub-paragraphs (a) to (f) which are not connected with the provision of adequate accommodation.

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

#### Textual Amendments

- F1** Sch. 1 para. 1(a)(iii) substituted (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **6(5)**
- F2** Words in Sch. 1 para. 1(a)(iv) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(5)**

#### Amount ineligible for meals

2.—(1) Where a charge for meals is ineligible to be met by housing benefit under paragraph 1, the amount ineligible in respect of each week shall be the amount specified in the following provisions of this paragraph.

(2) Subject to sub-paragraph (4), where the charge includes provision for at least three meals a day, the amount shall be—

- (a) for a single claimant, [<sup>F3</sup>£23.35;]
- (b) if the claimant is a member of a family—
  - (i) for the claimant and for each member of his family aged 16 or over, [<sup>F3</sup>£23.35;]
  - (ii) for each member of his family under age 16, [<sup>F3</sup>£11.80.]

(3) Except where sub-paragraph (5) applies and subject to sub-paragraph (4), where the charge includes provision for less than three meals a day, the amount shall be—

- (a) for a single claimant, [<sup>F3</sup>£15.50;]
- (b) if the claimant is a member of a family—
  - (i) for the claimant and for each member of his family aged 16 or over, [<sup>F3</sup>£15.50;]
  - (ii) for each member of his family under age 16, [<sup>F3</sup>£7.80.]

(4) For the purposes of sub-paragraphs (2)(b) and (3)(b), a person attains the age of 16 on the first Monday in September following his 16th birthday.

(5) Where the charge for meals includes the provision of breakfast only, the amount for the claimant and, if he is a member of a family, for the claimant and for each member of his family, shall be [<sup>F3</sup>£2.85.]

(6) Where a charge for meals includes provision for meals for a person who is not a member of the claimant's family sub-paragraphs (2) to (5) shall apply as if that person were a member of the claimant's family.

(7) For the avoidance of doubt where the charge does not include provision for meals for a claimant or, as the case may be, a member of his family, sub-paragraphs (2) to (5) shall not apply in respect of that person.

#### Textual Amendments

- F3** Sch. 1 para. 2 substituted (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(4)**

#### Amount of ineligible charges

3.—(1) Subject to paragraph 2 where an ineligible service charge is not separated from or separately identified within other payments made by the occupier in respect of the dwelling, the

appropriate authority shall apportion such charge as is fairly attributable to the provision of that service, having regard to the cost of comparable services and such portion of those payments shall be ineligible to be met by housing benefit.

(2) Subject to paragraph 2, where the relevant authority considers that the amount of any ineligible service charge which is separately identified within other payments made by the occupier in respect of the dwelling is unreasonably low having regard to the service provided, it shall substitute a sum for the charge in question which it considers represents the value of the services concerned and the amount so substituted shall be ineligible to be met by housing benefit.

(3) In sub-paragraph (2) the expression “ineligible service charge” includes any service charge which does not qualify as a periodical payment under regulation 12(1)(e) (rent).

(4) In any other case, the whole amount of the ineligible service charge shall be ineligible to be met by housing benefit.

#### **Excessive service costs**

4. Subject to paragraph 2, where the relevant authority considers that the amount of a service charge to which regulation 12(1)(e) (rent) applies is excessive in relation to the service provided for the claimant or his family, having regard to the cost of comparable services, it shall make a deduction from that charge of the excess and the amount so deducted shall be ineligible to be met by housing benefit.

## **PART 2**

### **Payments in respect of fuel charges**

5. A service charge for fuel except a charge in respect of services for communal areas shall be ineligible to be met by housing benefit.

- 6.—(1) Where a charge is ineligible to be met by housing benefit under paragraph 5—
- (a) in the calculation of entitlement to a rent rebate; or
  - (b) in the calculation of entitlement to a rent allowance if the amount of the charge is specified or is otherwise readily identifiable (except where the amount of the charge is unrealistically low in relation to the fuel provided or the charge cannot readily be distinguished from a charge for a communal area),

the amount ineligible to be met by housing benefit shall be the full amount of the service charge.

(2) In any other case, subject to sub-paragraphs (3) and (4) and paragraph 7, the amount ineligible to be met by housing benefit shall be the following amounts in respect of each week—

- (a) for heating (other than hot water) [<sup>F4</sup>£21.55];
- (b) for hot water [<sup>F5</sup>£2.50];
- (c) for lighting [<sup>F6</sup>£1.75] ;
- (d) for cooking [<sup>F7</sup>£2.50].

(3) Where the accommodation occupied by the claimant or, if he is a member of a family, by the claimant and the members of his family, consists of one room only, the amount ineligible to be met by housing benefit in respect of each week where heating only is, or heating and either hot water or lighting (or both) are, provided, shall be one-half of the aggregate of the amounts specified in sub-paragraphs (2)(a), (b) and (c).

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(4) In a case to which sub-paragraph (2) or (3) applies, if a claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, the amount ineligible to be met by housing benefit under this paragraph shall be that estimated amount.

#### Textual Amendments

- F4** Word in Sch. 1 para. 6(2)(a) substituted (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(6)(a)**
- F5** Word in Sch. 1 para. 6(2)(b) substituted (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(6)(b)**
- F6** Word in Sch. 1 para. 6(2)(c) substituted (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(6)(c)**
- F7** Word in Sch. 1 para. 6(2)(d) substituted (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(6)(b)**

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

- C1** [Sch. 1 para. 6\(2\)\(a\)](#) 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(5)(a)**
- C2** [Sch. 1 para. 6\(2\)\(b\)](#) 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(5)(b)**
- C3** [Sch. 1 para. 6\(2\)\(c\)](#) 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(5)(c)**
- C4** [Sch. 1 para. 6\(2\)\(d\)](#) 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(5)(b)**

7.—(1) Where rent is payable other than weekly, any amount ineligible to be met by housing benefit which is specified in this Schedule as a weekly amount shall—

- (a) where rent is payable in multiples of a week, be multiplied by the number equal to the number of weeks in respect of which it is payable; or
- (b) in any other case, be divided by 7 and multiplied by the number of days in the period to be used by the relevant authority for the purpose of calculating the claimant's weekly eligible rent under regulation 80 (calculation of weekly amounts).

(2) In a case to which regulation 81 applies (rent free periods), any amount ineligible to be met by housing benefit which is specified in this Schedule as a weekly amount shall, where appropriate, be converted in accordance with sub-paragraph (1) and shall—

- (a) where rent is payable weekly, or in multiples of a week, be multiplied by 52 or 53, whichever is appropriate, and divided by the number equal to the number of weeks in that 52 or 53 week period in respect of which he is liable to pay rent; or
- (b) in any other case, be multiplied by 365 or 366, whichever is appropriate, and divided by the number of days in that 365 or 366 day period in respect of which he is liable to pay rent.

8. In this Schedule—

communal areas mean areas (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation;

“fuel” includes gas and electricity and a reference to a charge for fuel includes a charge for fuel which includes an amount in respect of the facility of providing it other than a specified amount for the provision of a heating system.

## [<sup>F8</sup>SCHEDULE 2

Regulation 14

### Excluded tenancies

1. An excluded tenancy is any tenancy to which any of the following paragraphs applies.

2.—(1) Subject to the following sub-paragraphs, where a rent officer has made a determination, which relates to the tenancy in question or any other tenancy of the same dwelling this paragraph applies to—

- (a) the tenancy in respect of which that determination was made; and
- (b) any other tenancy of the same dwelling on terms which are substantially the same, other than the term relating to the amount of rent, as those terms were at the time of that determination or, if earlier, at the end of the tenancy.

(2) For the purposes of any claim, notification, request or application under regulation 14(1) (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to a rent officer’s determination made in consequence of an earlier claim, notification, request or application (“the earlier application”) where—

- (a) the earlier and later applications were made in respect of the same claimant or different claimants; and
- (b) the earlier application was made more than 52 weeks before the later application was made.

(3) Sub-paragraph (1) shall not apply where subsequent to the making of the determination mentioned in that sub-paragraph—

- (a) the number of occupiers of the dwelling has changed and that dwelling is not in a hostel;
- (b) there has been a substantial change in the condition of the dwelling (including the making of improvements) or the terms of the tenancy other than a term relating to rent;
- (c) there has been a rent increase under a term of the tenancy and the term under which that increase was made was either included in the tenancy at the time when the application for that determination was made (or was a term substantially the same as such a term) and that determination was not made under paragraph 1(2), 2(2) or 3(3) of Schedule 1 to the Rent Officers Order;

(d) in a case where the rent officer has made a determination under paragraph 2(2) of Schedule 1 to the Rent Officers Order (size and rent determinations), but since the date of the application for that determination—

- (i) a child, who is a member of the household occupying the dwelling, has attained the age of 10 years; or
- (ii) a young person, who is a member of the household occupying that dwelling, has attained the age of 16 years; or
- (iii) there is a change in the composition of the household occupying the dwelling;

(e) the claimant is a young individual, except in a case where the determination mentioned in sub-paragraph (1) was, or was made in conjunction with, a determination of a single

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room rent pursuant to paragraph 5 of Schedule 1 to the Rent Officers Order on or after 2nd July 2001.

**3.—(1)** This paragraph applies where the landlord is a registered housing association, except in a case where the local authority considers that—

- (a) the claimant occupies a dwelling larger than is reasonably required by him and any others who occupy that dwelling (including any non-dependants of his and any person paying rent to him); or
- (b) the rent payable for that dwelling is unreasonably high.

(2) Where the circumstances set out in head (a) or (b) of sub-paragraph (1) above exist, the authority shall so state in their application for a determination.

**4.** This paragraph applies to a tenancy entered into before—

- (a) in Scotland, 2nd January 1989; and
- (b) in any other case, 15th January 1989.

**5.** This paragraph applies to a regulated tenancy within the meaning of—

- (a) in Scotland, the Rent (Scotland) Act 1984; and
- (b) in any other case, the Rent Act 1977.

**6.** This paragraph applies to a housing association tenancy which—

- (a) in Scotland, is a tenancy to which Part 6 of the Rent (Scotland) Act 1984 applies; and
- (b) in any other case, is a housing association tenancy to which Part 6 of the Rent Act 1977 applies.

**7.** This paragraph applies to a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976.

**8.** This paragraph applies to a tenancy at a low rent within the meaning of Part 1 of the Landlord and Tenant Act 1954 or Schedule 10 to the Local Government and Housing Act 1989.

**9.** This paragraph applies to a tenancy of any dwelling which is a bail hostel or probation hostel approved by the Secretary of State under section 9(1) of the Criminal Justice and Court Services Act 2000.

**10.** This paragraph applies to a tenancy of a housing action trust established under Part 3 of the Housing Act 1988.

**11.—(1)** Subject to sub-paragraphs (2) and (3) this paragraph applies to a tenancy—

- (a) in respect of a dwelling comprised in land which has been disposed of under section 32 of the Housing Act 1985 or section 12 of the Housing (Scotland) Act 1987;
- (b) in respect of a dwelling comprised in land which has been disposed of with the consent required by section 43 of the Housing Act 1985 or section 12 of the Housing (Scotland) Act 1987;
- (c) in respect of which the fee simple estate has been acquired, under the right conferred by Chapter 2 of Part 1 of the Housing Act 1996, otherwise than from a housing action trust within the meaning of Part 3 of the Housing Act 1988, or in respect of which the house has been acquired under the right conferred by Part 3 of the Housing (Scotland) Act 1988; or
- (d) in respect of a dwelling disposed of under the New Towns (Transfer of Housing Stock) Regulations 1990 to a person who is an approved person for the purposes of disposal under those Regulations or in respect of a dwelling disposed of pursuant to powers contained in the New Towns (Scotland) Act 1968 to a housing association.

- (2) This paragraph shall not apply to a tenancy to which sub-paragraph (1) refers if—
- (a) there has been an increase in rent since the disposal or acquisition, as the case may be, occurred; and
  - (b) the local authority stated in the application for determination that—
    - (i) the claimant occupies a dwelling larger than is reasonably required by him and any others who occupy that dwelling (including any non-dependant of his and any person paying rent to him); or
    - (ii) the rent payable for that dwelling is unreasonably high.

(3) Where the disposal or acquisition, as the case may be, took place on or after 7th October 2002, sub-paragraph (2)(b) shall apply to a tenancy to which sub-paragraph (1) refers as if head (i) were omitted.

**12.** This paragraph applies to a shared ownership tenancy.

**13.** In this Schedule, “rent” shall be construed in accordance with paragraph (8) of regulation 14 (interpretation of “tenancy” and other expressions appropriate to a tenancy) and, subject to that paragraph, has the same meaning—

- (a) in Scotland, as in section 25 of the Housing (Scotland) Act 1988, except that the reference to the house in subsection (3) shall be construed as a reference to the dwelling;
- (b) in any other case, as in section 14 of the Housing Act 1988, except that the reference to the dwelling-house in subsection (4) shall be construed as a reference to the dwelling,

and—

- (i) other expressions have the same meanings as in regulation 14(8);
- (ii) in the case of a determination by a rent officer pursuant to a request for such a determination under regulation 14(1)(e), any reference to a “tenancy” shall be taken as a reference to a prospective tenancy and any reference to an “occupier” or any person “occupying” a dwelling shall, in the case of such a determination, be taken to be a reference to a potential occupier or potential occupation of that dwelling.]

## SCHEDULE 3

Regulation 22

### Applicable amounts

## PART 1

### Personal allowances

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

- C5** Sch. 3 Pt. 1 modified (1.4.2007 for specified purposes, 2.4.2007 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(j), 19(6), [Sch. 6](#)
- C6** Sch. 3 Pt. 1 modified (1.4.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(j), 19(7), [Sch. 6](#)
- C7** Sch. 3 Pt. 1 modified (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(7), [Sch. 5](#)

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**C8** Sch. 3 Pt. 1 modified (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(6), **Sch. 5**

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of regulations 22(a) and 23(a) and (b)—

<i>Column (1)</i> <i>Person or couple</i>	<i>Column (2)</i> <i>Amount</i>
[ <sup>F14</sup> (1) A single claimant who—]	(1)
[ <sup>F14</sup> (a) [ <sup>F14</sup> (a) is entitled to main phase employment and support allowance;]	[ <sup>F14</sup> (a) [ <sup>F14</sup> (a) £60.50;]
[ <sup>F14</sup> (b) [ <sup>F14</sup> (b) is aged not less than 25;]	[ <sup>F14</sup> (b) [ <sup>F14</sup> (b) £60.50;]
[ <sup>F14</sup> (c) [ <sup>F14</sup> (c) is aged less than 25.]	[ <sup>F14</sup> (c) [ <sup>F14</sup> (c) £47.95.]
[ <sup>F14</sup> (2) Lone parent who—]	(2)
[ <sup>F14</sup> (a) [ <sup>F14</sup> (a) is entitled to main phase employment and support allowance;]	[ <sup>F14</sup> (a) [ <sup>F14</sup> (a) £60.50;]
[ <sup>F14</sup> (b) [ <sup>F14</sup> (b) is aged not less than 18; or]	[ <sup>F14</sup> (b) [ <sup>F14</sup> (b) £60.50;]
[ <sup>F14</sup> (c) [ <sup>F14</sup> (c) is aged less than 18.]	[ <sup>F14</sup> (c) [ <sup>F14</sup> (c) £47.95.]
[ <sup>F14</sup> (3) Couple where—]	(3)
[ <sup>F14</sup> (a) [ <sup>F14</sup> (a) the claimant is entitled to main phase employment and support allowance;]	[ <sup>F14</sup> (a) [ <sup>F14</sup> (a) £94.95;]
[ <sup>F14</sup> (b) [ <sup>F14</sup> (b) at least one member is aged not less than 18;]	[ <sup>F14</sup> (b) [ <sup>F14</sup> (b) £94.95;]
[ <sup>F14</sup> (c) [ <sup>F14</sup> (c) both members are aged less than 18.]	[ <sup>F14</sup> (c) [ <sup>F14</sup> (c) £72.35.]

**Textual Amendments**  
**F14** Sch. 3 para 1(1)-(3) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **23(a)**

[<sup>F15</sup>1A. For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if—



- (a) each of the conditions in paragraph 21 is satisfied in relation to the claimant personally; or
- (b) the claimant personally is entitled to a converted employment and support allowance.]

**Textual Amendments**

**F15** Sch. 3 para. 1A substituted (1.10.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010 \(S.I. 2010/1907\)](#), reg. 1(2), **Sch. 5 para. 69(5)(a)** (with reg. 3)

2.—(1) The amount specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of regulations 22(b) and 23(c)—

<i>Column (1)</i> <i>Child or young person</i>	<i>Column (2)</i> <i>Amount</i>
Persons in respect of the period—	
(a) (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) (a) £43.88;
(b) (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's [ <sup>F16</sup> twentieth] birthday.	(b) (b) £43.88.

(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.

**Textual Amendments**

**F16** Word in Sch. 3 para. 2(1) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(b), **4(4)**

## PART 2

### Family premium

3.—(1) Subject to sub-paragraph (2), the amount for the purposes of regulations 22(c) and 23(d) in respect of a family of which at least one member is a child or young person shall be—

- (a) where the claimant is a lone parent to whom sub-paragraph (3) applies, £22.20;
- (b) in any other case, [<sup>F17</sup>£17.40.]

(2) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.50 where at least one child is under the age of one year and for the purposes of this paragraph where the child's

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first birthday does not fall on a Monday he shall be treated as under the age of one year until the first Monday after his first birthday.

- (3) The amount in sub-paragraph (1)(a) shall be applicable to a lone parent—
- (a) who was entitled to housing benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under [<sup>F18</sup>sub-paragraph (1)(a)] as in force on that date; or
  - (b) who was not entitled to housing benefit on 5th April 1998 because that date fell during a rent free period as defined in regulation 81(1) (rent free periods) and his applicable amount on that date would have included the amount applicable under [<sup>F18</sup>sub-paragraph (1)(a)] as in force on that date; or
  - (c) on becoming entitled to housing benefit where that lone parent—
    - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (5)(a) as at the day before the date of claim for that benefit; and
    - (ii) was entitled to council tax benefit as at the date of claim for housing benefit,

and in respect of whom, all of the conditions specified in sub-paragraph (4) have continued to apply.

(4) The conditions specified for the purposes of sub-paragraph (3) are that, in respect of the period commencing on 6th April 1998—

- (a) the claimant has not ceased to be entitled, or has not ceased to be treated as entitled, to housing benefit;
- (b) the claimant has not ceased to be a lone parent;
- (c) where the claimant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has [<sup>F19</sup>continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance or a combination of those benefits];
- (d) where the claimant was not entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has not become entitled to [<sup>F20</sup>income support, an income-based jobseeker's allowance or an income-related employment and support allowance]; and
- (e) a premium under paragraph <sup>F21</sup>... 12 [<sup>F22</sup>or a component under paragraph 23 or 24] has not become applicable to the claimant.

(5) For the purposes of sub-paragraphs (3)(c)(i) and (4)(a), a claimant shall be treated as entitled to housing benefit—

- (a) during any period where he was not, or had ceased to be, so entitled and throughout that period, he had been awarded council tax benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit Regulations 2006 (lone parent rate of family premium); or
- (b) during any rent free period as defined for the purposes of regulation 81(1).

#### Textual Amendments

**F17** Sch. 3 para. 3(1)(b) substituted (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(7)(b)**

**F18** Words in Sch. 3 para. 3(3)(a)(b) substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(a)**

- F19** Words in Sch. 3 para. 3(4)(c) substituted (1.4.2009 for specified purposes, 6.4.2009 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(5), **6(10)(b)(i)**
- F20** Words in Sch. 3 para. 3(4)(d) substituted (1.4.2009 for specified purposes, 6.4.2009 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(5), **6(10)(b)(ii)**
- F21** Words in Sch. 3 para. 3(4)(e) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(b)**
- F22** Words in Sch. 3 para. 3(4)(e) inserted (1.4.2009 for specified purposes, 6.4.2009 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(5), **6(10)(b)(iii)**

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

- C9** Sch. 3 para. 3(1)(a) sum confirmed (1.4.2007 for specified purposes, 2.4.2007 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(j), **19(7)(a)**
- C10** Sch. 3 para. 3(1)(a) sum confirmed (1.4.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(j), **19(8)(a)**
- C11** Sch. 3 para. 3(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(8)(a)**
- C12** Sch. 3 para. 3(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(7)(a)**
- C13** Sch. 3 para. 3(2) sum confirmed (1.4.2007 for specified purposes, 2.4.2007 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(j), **19(7)(c)**
- C14** Sch. 3 para. 3(2) sum confirmed (1.4.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(j), **19(8)(c)**
- C15** Sch. 3 para. 3(2) 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(8)(c)**
- C16** Sch. 3 para. 3(2) 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(7)(c)**

## PART 3

### Premiums

4. Except as provided in paragraph 5, the premiums specified in Part 4 of this Schedule shall, for the purposes of regulations 22(d) and 23(e), be applicable to a claimant who satisfies the condition specified in paragraphs 8 to 17 in respect of that premium.

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

<sup>F23</sup>6. - The following premiums, namely—

- (a) a severe disability premium to which paragraph 14 applies;
- (b) an enhanced disability premium to which paragraph 15 applies;
- (c) a disabled child premium to which paragraph 16 applies; and
- (d) a carer premium to which paragraph 17 applies,

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may be applicable in addition to any other premium which may apply under this Schedule.]

**Textual Amendments**

**F23** Sch. 3 para. 6 substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(c)**

7.—(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 for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 <sup>M16</sup> applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the 1973 Act, or by [<sup>F24</sup>Skills Development Scotland,] Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 <sup>M17</sup> 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 carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act.

**Textual Amendments**

**F24** Words in Sch. 3 para. 7(1)(b) inserted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **6(3)(c)**

**Marginal Citations**

**M16** S.I. 1979/597.  
**M17** 1990 c. 35.

**Bereavement premium**

<sup>F25</sup>**8.** .....

**Textual Amendments**

**F25** Sch. 3 para. 8 heading revoked (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), reg. 1(1), **Sch.**

**Pensioner Premium for persons under 75**

<sup>F26</sup>**9.** .....

**Textual Amendments**

**F26** Sch. 3 para. 9 omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(d)**

**Pensioner Premium for persons 75 and over**

<sup>F27</sup>**10.** . . . . .

**Textual Amendments**

**F27** Sch. 3 para. 10 omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(d)**

**Higher Pensioner Premium**

<sup>F28</sup>**11.** . . . . .

**Textual Amendments**

**F28** Sch. 3 para. 11 omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(d)**

**Disability Premium**

**12.** The condition is that—

- (a) where the claimant is a single claimant or a lone parent, [<sup>F29</sup>has not attained the qualifying age for state pension credit] and the additional condition specified in paragraph 13 is satisfied; or
- (b) where the claimant has a partner, either—
  - (i) the claimant [<sup>F29</sup>has not attained the qualifying age for state pension credit] and the additional condition specified in paragraph 13(1)(a) or (b) is satisfied by him; or
  - (ii) his partner [<sup>F29</sup>has not attained the qualifying age for state pension credit] and the additional condition specified in paragraph 13(1)(a) is satisfied by his partner.

**Textual Amendments**

**F29** Words in Sch. 3 para. 12 substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **26(2)**

**Additional Condition for the<sup>F30</sup> ... [<sup>F31</sup>Disability Premium]**

**13.—**(1) Subject to sub-paragraph (2) and paragraph 7, the additional condition referred to in paragraphs 11 and 12 is that either—

- (a) the claimant or, as the case may be, his partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, the disability element or the severe disability element of working

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tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit Regulations, mobility supplement, long-term incapacity benefit under Part 2 of the Act or severe disablement allowance under Part 3 of the Act but, in the case of long-term incapacity benefit or severe disablement allowance only where it is paid in respect of him; or

- (ii) was in receipt of long-term incapacity benefit under Part 2 of the Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the claimant has since remained continuously entitled to housing benefit and, if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
- (iii) <sup>F32</sup>...was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the Act or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of [<sup>F33</sup> regulation 28(11)(e) (treatment of child care charges)]; or
- (iv) is provided by the Secretary of State with an invalid carriage or other vehicle under section 5(2) of the National Health Service Act 1977 <sup>M18</sup> (other services) or, in Scotland by the Scottish Ministers, under section 46 of the National Health Service (Scotland) Act 1978 <sup>M19</sup> (provision of services) 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 by the Scottish Ministers, under section 46 of the Act of 1978; or
- (v) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 <sup>M20</sup> (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994 <sup>M21</sup>; or

(b) the claimant—

- (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work); and
- (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
  - (aa) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of the Act <sup>M22</sup>, 196 days;
  - (bb) in any other case, 364 days.

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

(3) For the purposes of sub-paragraph (1)(b), once <sup>F34</sup>... the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).

<sup>F35</sup>(4) .....

(5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall

continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act <sup>M23</sup> or for any period during which he is in receipt of a training allowance.

(6) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.

(7) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(8) In the case of a claimant who is a welfare to work beneficiary [<sup>F36</sup>(a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the Act)]—

(a) the reference to a period of 8 weeks in sub-paragraph (3); and

(b) the reference to a period of 56 days in sub-paragraph (6),

shall in each case be treated as a reference to a period of [<sup>F37</sup>104 weeks].

[<sup>F38</sup>(9) The claimant is not entitled to the disability premium if the claimant has, or is treated as having, limited capability for work <sup>F39</sup>...]

#### Textual Amendments

- F30** Words in Sch. 3 para. 13 heading omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(e)**
- F31** Words in Sch. 3 para. 13 heading substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(e)**
- F32** Words in Sch. 3 para. 13(1)(a)(iii) omitted by virtue of S.I. 2005/2502, reg. 2(15)(a)(i) (as amended) (3.4.2006) by virtue of [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 27(15)(b)(i)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F33** Words in Sch. 3 para. 13(1)(a)(iii) substituted by S.I. 2005/2502, reg. 2(15)(a)(ii) (as amended) (3.4.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 27(15)(b)(ii)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F34** Words in Sch. 3 para. 13(3) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(f)**
- F35** Sch. 3 para. 13(4) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(g)**
- F36** Words in Sch. 3 para. 13(8) substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(h)**
- F37** Words in Sch. 3 para. 13(8) substituted (9.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **15(5)**
- F38** Sch. 3 para. 13(9) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **23(b)**
- F39** Words in Sch. 3 para. 13(9) omitted by SI 2008/1082 reg. 23(b) (as amended) (27.10.2008) by virtue of [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **31(a)**

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*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

### Marginal Citations

- M18** 1977 c. 49; section 5(2) was amended subsection (2A) added by the [Public Health Laboratory Services Act 1979 \(c. 23\)](#), [section 1](#), and subsection (2B) added by section 9 of the [Health and Social Security Act 1984 \(c. 48\)](#).
- M19** 1978 c. 29.
- M20** 1948 c. 29; section 29 was amended by the [National Assistance \(Amendment\) Act 1959 \(c. 30\)](#), [section 1\(2\)](#); the [Mental Health \(Scotland\) Act 1960 \(c. 61\)](#), [sections 113\(1\)](#) and 114 of and Schedule 4 to the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), [section 95\(2\)](#) and Schedule 9 Part 1; the [Local Government Act 1972 \(c. 70\)](#), sections 195(6), 272(1), [Schedule 23 paragraph 2](#) and Schedule 30; the [Employment and Training Act 1973 \(c. 50\)](#), [section 14\(1\)](#) and Schedule 3 paragraph 3; the [National Health Service Act 1977 \(c. 49\)](#), [section 129](#) and Schedule 15 paragraph 6; the [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), [section 30](#) and Schedule 10 Part I; the [Children Act 1989 \(c. 41\)](#) section 108(5) and Schedule 13 paragraph 11(2); and the [National Health Service and Community Care Act 1990 \(c. 19\)](#), [section 44\(7\)](#).
- M21** 1994 c. 39. Section 2 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 232(1).
- M22** Section 30B was inserted by the [Social Security \(Incapacity for Work\) Act 1994\(c. 18\)](#), section 2.
- M23** 1973 c. 50; section 2 was amended by the [Employment Act 1988 \(c. 19\)](#), [section 25\(1\)](#); the [Employment Act 1989 \(c. 38\)](#), Part I, [Schedule 7](#); and the [Trade Union Reform and Employment Rights Act 1993 \(c. 19\)](#),section 47(1).

### Severe Disability Premium

**14.—(1)** The condition is that the claimant is a severely disabled person.

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

- (a) 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)—
- (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and
  - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
  - (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the Act in respect of caring for him;
- (b) in the case of a claimant who has a partner—
- (i) 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 Act; and
  - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
  - (iii) subject to sub-paragraph (4), the claimant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is [<sup>F40</sup>entitled to and in receipt of] a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.



(3) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 13(1)(a)(v) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.

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

- (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 13(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person shall be treated—

- (a) 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 Act, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to and in receipt of a carer's 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) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of carer's allowance to the extent that payment of such an award is backdated for a period before <sup>F41</sup>the date on which the award is first paid].

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section <sup>F42</sup>6B or] 7 of the Social Security Fraud Act 2001 <sup>M24</sup>(loss of benefit provisions).

#### Textual Amendments

**F40** Words in Sch. 3 para. 14(2)(b) substituted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **6(10)(c)**

**F41** Words in Sch. 3 para. 14(6) substituted (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **6(6)**

**F42** Words in Sch. 3 para. 14(7) inserted (1.4.2010) by [The Social Security \(Loss of Benefit\) Amendment Regulations 2010 \(S.I. 2010/1160\)](#), regs. 1, **4(3)**

#### Marginal Citations

**M24** [2001 c. 11](#); section 7 was amended by the State Pension Credit Act 2002, section 14 and Schedule 2 and by the Tax Credits Act 2002, section 60 and Schedule 6.

### Enhanced disability premium

15.—<sup>F43</sup>(1) Subject to sub-paragraph (2), the condition is that—

- (a) <sup>F44</sup>the Secretary of State has decided that the claimant has, or is to be treated as having, limited capability for work-related activity; or]
- (b) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations made under section 113(2) of the Act or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the Act in respect of—
  - (i) the claimant; or

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- (ii) a member of the claimant's family,  
 who [<sup>F45</sup>has not attained the qualifying age for state pension credit].]
- (2) An enhanced disability premium shall not be applicable in respect of—
- (a) a claimant who—
- (i) is not a member of a couple or a polygamous marriage; and
- (ii) is a patient within the meaning of [<sup>F46</sup>regulation 28(11)(e)] and has been for a period of more than 52 weeks; or
- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of [<sup>F47</sup>regulation 28(11)(e)] and has been for a period of more than 52 weeks.

#### Textual Amendments

- F43** Sch. 3 para. 15(1) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **23(c)**
- F44** Sch. 3 para. 15(1)(a) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **31(b)**
- F45** Words in Sch. 3 para. 15(1) substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **26(3)**
- F46** Words in Sch. 3 para. 15(2)(a)(ii) substituted by S.I. 2005/2502, reg. 2(15)(b) (as amended) (3.4.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 27(15)(c)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F47** Words in Sch. 3 para. 15(2)(b) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(8)**

#### 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) is in receipt of disability living allowance or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 13; or
- (c) is a child or young person in respect of whom section 145A of the Act <sup>M25</sup> (entitlement to child benefit after death of child) applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of the Act and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child.

#### Marginal Citations

- M25** Section 145A was inserted by section 55 of the [Tax Credits Act 2002 \(c. 21\)](#); and amended by the [Civil Partnership Act 2004 \(c. 33\)](#), [section 254](#) and Schedule 24, and paragraph 8.

#### Carer premium

**17.—(1)** The condition is that the claimant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the Act.

- (2) Where a carer premium is awarded but—
- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
  - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

- (3) The relevant date for the purposes of sub-paragraph (2) shall be—
- (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday;
  - (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes a claim for housing benefit, 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) the person in respect of whose care the carer's allowance has been awarded dies;
- (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

#### **Persons in receipt of concessionary payments**

**18.** For the purpose of determining whether a premium is applicable to a person under paragraphs 13 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 4**

### **Amounts of premiums specified in Part 3**

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

- C17** Sch. 3 Pt. 4 modified (1.4.2007 for specified purposes, 2.4.2007 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(j), 19(8), [Sch. 7](#)
- C18** Sch. 3 Pt. 4 modified (1.4.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(j), 19(9), [Sch. 7](#)
- C19** Sch. 3 Pt. 4 modified (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(9), [Sch. 6](#)
- C20** Sch. 3 Pt. 4 modified (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(8), [Sch. 6](#)

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**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

**20.**

<i>Premium</i>	<i>Amount</i>
(1) <sup>F48</sup> . . .	(1) <sup>F48</sup> . . .
F49	F49
. . .	. . .
F49	F49
. . .	. . .
F49	F49
. . .	. . .
F50	F50
. . .	. . .
F50	F50
. . .	. . .
F50	F50
. . .	. . .
F51	F51
. . .	. . .
F51	F51
. . .	. . .
F51	F51
. . .	. . .
(5) Disability Premium—	(5)
(a) (a) where the claimant satisfies the condition in paragraph 12(a);	(a) (a) £23.95;
(b) (b) where the claimant satisfies the condition in paragraph 12(b).	(b) (b) £34.20.
(6) Severe Disability Premium—	(6)
(a) (a) where the claimant satisfies the condition in paragraph 14(2)(a);	(a) (a) £45.50;
(b) (b) where the claimant satisfies the condition in paragraph 14(2)(b)—	
(i) in a case where there is someone in receipt of carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 14(5);	(b) (b) (i) £45.50;

- |   |  |
|---|--|
| (ii) in a case where there is no one in receipt of such an allowance. | (b) (b)<br>(ii) £91.00.  |
| (7) Disabled Child Premium.   | (7) £43.89 in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of this Schedule is satisfied.  |
| (8) Carer Premium.  | (8) £25.80 in respect of each person who satisfies the condition specified in paragraph 17.  |
| (9) Enhanced Disability Premium <sup>F52</sup> ....                   | (9)<br>(a) £17.71 in respect of each child or young person in respect of whom the conditions specified in paragraph 15 are satisfied;<br>(b) £11.70 in respect of each person who is neither—<br>(i) a child or young person; nor<br>(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 15 are satisfied;<br>(c) £16.90 where the claimant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 are satisfied in respect of a member of that couple or polygamous marriage. |

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#### Textual Amendments

- F48** Sch. 3 para. 20(1) revoked (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), reg. 1(1), **Sch.**
- F49** Sch. 3 para. 20(2) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(i)**
- F50** Sch. 3 para. 20(3) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(i)**
- F51** Sch. 3 para. 20(4) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(10)(i)**
- F52** Words in Sch. 3 para. 20(9) omitted (1.11.2010) by virtue of [The Housing Benefit and Council Tax Benefit \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/2449\)](#), regs. 1(2), **2(8)(b)**

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

## [<sup>F53</sup>PART 5

### The components

#### Textual Amendments

**F53** Sch. 3 Pts. 5, 6 added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **23(d)**

**21.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 or 24 if—

- (a) the claimant or the claimant’s partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the claimant or the claimant’s partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—
  - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
  - (ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

[<sup>F54</sup>**21A.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 or 24 if the claimant or the claimant’s partner is entitled to a converted employment and support allowance.]

#### Textual Amendments

**F54** Sch. 3 para. 21A inserted (1.10.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010 \(S.I. 2010/1907\)](#), reg. 1(2), **Sch. 5 para. 69(5)(b)** (with reg. 3)

**22.—(1)** The claimant has no entitlement under paragraph 23 or 24 if the claimant is entitled to the disability premium under paragraphs 12 and 13.

(2) Where the claimant and the claimant’s partner each satisfies paragraph 23 or 24, the component to be included in the claimant’s applicable amount is that which relates to the claimant.

#### The work-related activity component

**23.** The claimant is entitled to the work-related activity component if the Secretary of State has decided that the claimant or the claimant’s partner has, or is to be treated as having, limited capability for work.

## The support component

24. The claimant is entitled to the support component if the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work-related activity.

## PART 6

### Amount of components

25. The amount of the work-related activity component is [<sup>F55</sup>£25.95.]

#### Textual Amendments

**F55** Sch. 3 para. 25 substituted (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(9)(a)**

26. The amount of the support component is [<sup>F56</sup>£31.40.]

#### Textual Amendments

**F56** Sch. 3 para. 26 substituted (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(9)(b)**

## [<sup>F57</sup>PART 7

### Transitional Addition

#### Textual Amendments

**F57** Sch. 3 Pts. 7, 8 added (1.10.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010 \(S.I. 2010/1907\)](#), reg. 1(2), **Sch. 5 para. 69(5)(c)** (with reg. 3)

27.—(1) The claimant is entitled to the transitional addition calculated in accordance with paragraph 30 where the claimant or the claimant's partner ("the relevant person")—

- (a) is entitled to a converted employment and support allowance; or
- (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and—
  - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations; and
  - (ii) is not in receipt of an income-related employment and support allowance,

unless the amount of the transitional addition calculated in accordance with paragraph 30 would be nil.

(2) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

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- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of housing benefit;
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

**28.—(1)** This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the termination of the claimant's award of housing benefit, under—
  - (i) paragraph 27(2)(b);
  - (ii) sub-paragraph (3)(b) of this paragraph; or
  - (iii) paragraph 29(3)(b);
- (b) within 104 weeks of that termination but before 5th April 2020 the claimant again becomes entitled to housing benefit;
- (c) in the benefit week in which the claimant again becomes entitled to housing benefit the relevant person is entitled to an employment and support allowance which is not income-related;
- (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where claimant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (e) at the date on which the claimant again becomes entitled to housing benefit, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day on which the claimant again becomes entitled to housing benefit, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of housing benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

**29.—(1)** This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
  - (i) paragraph 27(2)(c);



- (ii) paragraph 28(3)(c); or
- (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) either—
  - (i) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulation applies to the relevant person; or
  - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for housing benefit purposes, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of housing benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

## PART 8

### Amount of transitional addition

**30.**—(1) Subject to paragraph 31, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the relevant person—

- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.

(3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support

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Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations—

- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.

(4) In this paragraph and paragraph 31, “basic amount” means the aggregate of such amounts as may apply in the claimant’s case in accordance with regulation 22(a) to (e) or regulation 23(a) to (f).

**31.**—(1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the claimant’s basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which Amount C exceeds Amount D.

(2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.

- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.]

#### SCHEDULE 4

Regulations 36(2) and 38(2)

##### 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) where—
  - (i) the employment has been terminated because of retirement; and
  - (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings [<sup>F58</sup>paid or due to be paid] in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

- [<sup>F59</sup>(b) where before the first day of entitlement to housing benefit the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

[<sup>F60</sup>(i) any payment of the nature described in—

- (aa) regulation 35(1)(e), or
- (bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and]

- (ii) any award, sum or payment of the nature described in—

- (aa) regulation 35(1)(g) or (h), or
- (bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

- (c) where before the first day of entitlement to housing benefit—
- (i) the employment has not been terminated, but
  - (ii) the claimant is not engaged in remunerative work,
- any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in r <sup>F61</sup>paragraph 1(b)(i) or (ii)(bb) or regulation 35(1)(i)] (i) or (j).]

#### Textual Amendments

- F58** Words in Sch. 4 para. 1(a) inserted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **11(11)(a)(i)**
- F59** Sch. 4 para. 1(b)(c) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **11(11)(a)(ii)**
- F60** Sch. 4 para. 1(b)(i) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(a), **6(5)(a)**
- F61** Words in Sch. 4 para. 1(c) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(a), **6(5)(b)**

2. In the case of a claimant who, before the <sup>F62</sup>first day of entitlement to housing benefit]—
- (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 been terminated,

any earnings <sup>F63</sup>paid or due to be paid] in respect of that employment except—

- (i) where that employment has been terminated, <sup>F64</sup>any payment of the nature described in <sup>F65</sup>paragraph 1(b)(i) or (ii)(bb)] ;
- (ii) where that employment has not been terminated, <sup>F66</sup>any payment or remuneration of the nature described in <sup>F67</sup>paragraph 1(b)(i) or (ii)(bb) or regulation 35(1)(i) or (j)].

#### Textual Amendments

- F62** Words in Sch. 4 para. 2 substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **11(11)(b)(i)**
- F63** Words in Sch. 4 para. 2 inserted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **11(11)(b)(ii)**
- F64** Words in Sch. 4 para. 2 substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **11(11)(b)(iii)**
- F65** Words in Sch. 4 para. 2(b)(i) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(a), **6(5)(c)**
- F66** Words in Sch. 4 para. 2 substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **11(11)(b)(iv)**
- F67** Words in Sch. 4 para. 2(b)(ii) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(a), **6(5)(b)**

<sup>F68</sup>2A. 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

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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 37(3) and (4) (earnings of self-employed earners) apply.]

**Textual Amendments**  
**F68** Sch. 4 para. 2A inserted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **6(11)**

**3.—(1)** In a case to which this paragraph applies and paragraph 4 does not apply, £20; but notwithstanding regulation 25 (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 paragraph are less than £20.

(2) This paragraph applies where the claimant's applicable amount includes an amount by way of the disability premium<sup>F69</sup>, severe disability premium, work-related activity component or support component] under Schedule 3 (applicable amounts).

(3) This paragraph applies where—

- (a) [<sup>F70</sup>the claimant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3;] and
- (b) he or his partner [<sup>F71</sup>has not attained the qualifying age for state pension credit] and at least one is engaged in employment.

<sup>F72</sup>(4) .....

<sup>F73</sup>(5) .....

**Textual Amendments**  
**F69** Words in Sch. 4 para. 3(2) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **24(a)**  
**F70** Words in Sch. 4 para. 3(3)(a) substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(11)(a)**  
**F71** Words in Sch. 4 para. 3(3)(b) substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **27(2)**  
**F72** Sch. 4 para. 3(4) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(11)(b)**  
**F73** Sch. 4 para. 3(5) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(11)(b)**

**4.** In a case where the claimant is a lone parent, £25.

**5.—(1)** In a case to which neither paragraph 3 nor paragraph 4 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 3 (applicable amounts), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 17(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the claimant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.

6. Where the carer premium is awarded in respect of a claimant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 8(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 5 exceed £20;
- (b) other than one specified in paragraph 8(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.

7. In a case where paragraphs 3, 5, 6 and 8 do not apply to the claimant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 25 (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 £10.

8.—(1) In a case where paragraphs 3, 4, 5 and 6 do not apply to the claimant, £20 of earnings derived from one or more employments as—

- (a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004<sup>M26</sup> or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005<sup>M27</sup> or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001<sup>M28</sup>;

but, notwithstanding regulation 25 (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 £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the claimant's earnings disregarded under this paragraph exceed £20.

#### Marginal Citations

**M26** 2004 c. 21.

**M27** 2005 asp 5. paragraph 8(1)(c) applies in Scotland only— see footnote (a) above.

**M28** S.I. 2001/1004.

9. Where the claimant is engaged in [<sup>F74</sup>one or more employments] specified in paragraph 8(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single claimant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under [<sup>F75</sup>paragraph 8] exceed £20.

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### Textual Amendments

- F74** Words in Sch. 4 para. 9 substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(11)(c)(i)**
- F75** Words in Sch. 4 para. 9 substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(11)(c)(ii)**

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

[<sup>F76</sup>**10A.**—(1) Where—

- (a) the claimant (or if the claimant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 12 does not apply,

the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 3 to 10 do not apply; but in any case where the claimant is a lone parent, and the specified amount would be less than the amount specified in paragraph 4, then paragraph 4 applies instead of this paragraph.

(3) Notwithstanding regulation 25 (calculation of income and capital of members of claimant’s family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it shall not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

(4) Where A’s earnings are less than the specified amount, there shall also be disregarded so much of B’s earnings as would not when aggregated with A’s earnings exceed the specified amount; but the amount of B’s earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

(5) This sub-paragraph applies to a person who is—

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance; or
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) “Exempt work” means work of the kind described in—

- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations; or (as the case may be)
- (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether a claimant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).]

**Textual Amendments**

**F76** Sch. 4 para. 10A inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Housing Benefit and Council Tax Benefit \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/2608\)](#), reg. 1(2)(3), **2(4)(a)**

**11.** Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 5 had the claimant's income which does not consist of earnings been sufficient to entitle him to the full disregarded thereunder.

**12.** Where a claimant is on income support<sup>[F77]</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance], his earnings.

**Textual Amendments**

**F77** Words in Sch. 4 para. 12 substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **24(b)**

**13.** Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

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

**15.** Any earnings of a child or young person.

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

**17.—(1)** In a case where the claimant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under [F78]paragraphs 3 to 10A] of this Schedule shall be increased by [F79]£17.10.]

(2) The conditions of this sub-paragraph are that—

(a) the claimant, or if he is a member of a couple, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or

(b) the claimant—

(i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) is a member of a couple and—

(aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) his applicable amount includes a family premium under paragraph 3 of Schedule 3; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—

**Status:** Point in time view as at 01/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

- [<sup>F80</sup>(aa) the claimant's applicable amount includes a disability premium under paragraph 12, the work-related activity component under paragraph 23 or the support component under paragraph 24 of Schedule 3 ...;]
- (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the [<sup>F81</sup>, a disability premium, the work-related activity component or the support component] referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
- (c) the claimant is, or, if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.
- (3) The following are the amounts referred to in sub-paragraph (1)—
- (a) the amount to be disregarded from the claimant's earnings under [<sup>F82</sup>paragraphs 3 to 10A] of this Schedule;
- (b) the amount of child care charges calculated as deductible under [<sup>F83</sup>regulation 27(1)(c)]; and
- [<sup>F84</sup>(c) £17.10 ]
- (4) The provisions of regulation 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation were a reference to 30 hours.

#### Textual Amendments

- F78** Words in Sch. 4 para. 17(1) substituted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Housing Benefit and Council Tax Benefit \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/2608\)](#), reg. 1(2)(3), **2(4)(b)**
- F79** Sch. 4 para. 17(1) substituted (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(10)**
- F80** Words in Sch. 4 para. 17(2) (b)(iv)(aa) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **24(c)(i)**
- F81** Words in Sch. 4 para. 17(2)(b)(iv) (bb) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **24(c)(ii)**
- F82** Words in Sch. 4 para. 17(3)(a) substituted (1.11.2010) by [The Housing Benefit and Council Tax Benefit \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/2449\)](#), regs. 1(2), **2(9)**
- F83** Words in Sch. 4 para. 17(3)(b) substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(11)(f)**
- F84** Sch. 4 para. 17(3)(c) substituted (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(10)**

## SCHEDULE 5

Regulation 40

Sums to be disregarded in the calculation of income other than earnings

1. Any amount paid by way of tax on income which is to be taken into account under regulation 40 (calculation of income other than earnings).
2. Any payment in respect of any expenses incurred or to be 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 42(9) (notional income).

[<sup>F85</sup>2A. Any payment in respect of expenses arising out of the claimant's participation in a service user group.]

**Textual Amendments**

**F85** Sch. 5 para. 2A inserted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(a), **6(6)(a)**

3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

4. Where a claimant is on income support<sup>[F86]</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance<sup>]</sup> the whole of his income.

**Textual Amendments**

**F86** Words in Sch. 5 para. 4 substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **25(a)**

5. Where the claimant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the claimant's income.

6. Any disability living allowance.

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

- (a) any payment specified in paragraph 6 or 9;
- (b) income support;
- (c) an income-based jobseeker's allowance.

[<sup>F87</sup>(d) an income-related employment and support allowance.]

**Textual Amendments**

**F87** Sch. 5 para. 7(d) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **25(b)**

8. Any mobility supplement under [<sup>F88</sup>article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006]<sup>M29</sup> (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 <sup>M30</sup> or any payment intended to compensate for the non-payment of such a supplement.

**Textual Amendments**

**F88** Words in Sch. 5 para. 8 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(a)**

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

### Marginal Citations

**M29** S.I. 1983/883; as amended by S.I. 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286 and 2001/409.

**M30** S.I. 1983/686; amended by S.I. 1983/1164 and 1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420.

9. Any attendance allowance.

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

11.—(1) Any payment—

(a) by way of an education maintenance allowance made pursuant to—

(i) regulations made under section 518 of the Education Act 1996 <sup>M31</sup> (payment of school expenses; grant of scholarships etc.);

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 <sup>M32</sup> (power to assist persons to take advantage of educational facilities);

[<sup>F89</sup>(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or]

(b) corresponding to such an education maintenance allowance, made pursuant to—

(i) section 14 or section 181 of the Education Act 2002 <sup>M33</sup> (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

(ii) regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

(a) regulations made under section 518 of the Education Act 1996;

(b) regulations made under section 49 of the Education (Scotland) Act 1980; or

[<sup>F90</sup>(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,]

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).

### Textual Amendments

**F89** Sch. 5 para. 11(1)(a)(iii) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(b)(i)**

**F90** Sch. 5 para. 11(2)(c) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(b)(ii)**

### Marginal Citations

**M31** 1996 c. 56; section 518 was substituted by the [School Standards and Framework Act 1998 \(c. 31\)](#), [section 129](#).

**M32** 1980 c. 44.

**M33** 2002 c. 32; section 14 was amended by the [Education Act 2005 \(c. 18\)](#), [section 98](#) and Schedule 14, paragraph 23.

12. Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002 <sup>M34</sup>.

**Marginal Citations**

**M34** [S.I. 2002/2086](#).

**13.—(1)** <sup>M35</sup> Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except—

- (a) a payment made as a substitute for income support, a jobseeker's allowance, incapacity benefit<sup>F91</sup>, severe disablement allowance or an employment and support allowance];
- (b) a payment of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (c) a payment intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed; or
- (d) for the purpose only of assessing entitlement to housing benefit in respect of a dwelling other than the one which the claimant normally occupies as his home, a payment made to a person to whom regulation 7(5)(b) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) applies to the extent that the payment is made in respect of the cost of living away from home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent 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, “rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

**Textual Amendments**

**F91** Words in [Sch. 5 para. 13\(1\)\(a\)](#) 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(10)(a)**

**Marginal Citations**

**M35** [1990 c. 35](#).

**14.—(1)** Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;
- (d) a payment under an annuity purchased—
  - (i) pursuant to any agreement or court order to make payments to the claimant; or
  - (ii) from funds derived from a payment made, in consequence of any personal injury to the claimant; or

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

- (e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.
- (2) Sub-paragraph (1) shall not apply to a payment which is made or due to be made by—
- (a) a former partner of the claimant, or a former partner of any member of the claimant's family; or
- (b) the parent of a child or young person where that child or young person is a member of the claimant's family.
15. Subject to paragraph 34, £10 of any of the following, namely—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 8 or 9);
- [<sup>F92</sup>(b) a war widow's pension or [<sup>F93</sup>war widower's pension];]
- (c) a pension payable to a person as a widow, widower or surviving civil partner under <sup>F94</sup> ... <sup>M36</sup> and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment [<sup>F95</sup>and, if the amount of that payment has been abated to less than £10 by a [<sup>F96</sup>pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005], so much of [<sup>F97</sup>that pension or payment] as would not, in aggregate with the amount of [<sup>F98</sup>any] guaranteed income payment disregarded, exceed £10];
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution 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.

#### Textual Amendments

- F92** Sch. 5 para. 15 substituted (19.5.2008) by *The Social Security (Miscellaneous Amendments) (No.2) Regulations 2008 (S.I. 2008/1042)*, regs. 1(2), **3(12)(a)**
- F93** Words in Sch. 5 para. 15(b) substituted (2.11.2009) by *The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655)*, regs. 1(3)(a), **6(6)(b)(i)**
- F94** Words in Sch. 5 para. 15(c) omitted (5.1.2009) by virtue of *The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157)*, regs. 1(1), **5(6)(c)(i)**
- F95** Words in Sch. 5 para. 15(d) inserted (5.1.2009) by *The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157)*, regs. 1(1), **5(6)(c)(ii)**
- F96** Words in Sch. 5 para. 15(d) substituted (2.11.2009) by *The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655)*, regs. 1(3)(a), 6(6)(aa)**(b)(ii)**
- F97** Words in Sch. 5 para. 15(d) substituted (2.11.2009) by *The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655)*, regs. 1(3)(a), **6(6)(b)(ii)(bb)**
- F98** Word in Sch. 5 para. 15(d) substituted (2.11.2009) by *The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655)*, regs. 1(3)(a), **6(6)(b)(ii)(cc)**

**Marginal Citations**

**M36** 1977 c. 5.

16. Subject to paragraph 34, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the Act;
- (b) widowed parent's allowance paid pursuant to section 39A of the Act <sup>M37</sup>.

**Marginal Citations**

**M37** Section 39A was inserted by section 55(2) of the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#).

17.—(1) Any income derived from capital to which the claimant is or is treated under regulation 51 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 6.

(2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 6 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 2(1) shall apply to sub-paragraph (2) of this paragraph 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”.

<sup>F99</sup>18. ....

**Textual Amendments**

**F99** Sch. 5 para. 18 omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(12)(b)**

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

- (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998 <sup>M38</sup>, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980 <sup>M39</sup>, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student's student loan,

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

**Status:** Point in time view as at 01/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

### Marginal Citations

**M38** 1998 c. 30.

**M39** 1980 c. 44.

**20.**—(1) Where the claimant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 or an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the claimant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 19, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

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

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

whichever is less.

**21.** Any payment made to the claimant by a child or young person or a non-dependant.

**22.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 42 refers 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—

- <sup>[F100]</sup>(a) where 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, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.]

### Textual Amendments

**F100** Sch. 5 para. 22(a)(b) substituted (1.4.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(3), **11(12)**

**23.**—(1) Any income in kind, except where regulation 40(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.

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

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

(a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 <sup>M40</sup> or [<sup>F101</sup>in accordance] with a scheme approved by the Scottish Ministers under [<sup>F102</sup>section 51A] of the Adoption (Scotland) Act 1978 <sup>M41</sup> (schemes for payments of allowances to adopters);

<sup>F103</sup>(b) .....

[<sup>F104</sup>(ba) 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 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);]

(c) 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);

(d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 <sup>M42</sup> (special guardianship support services);

to the extent specified in sub-paragraph (3).

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

(3) In the case of a child or young person, so much of the weekly amount of the payment as exceeds the amount included under Schedule 3 in the calculation of the claimant's applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any.

#### Textual Amendments

**F101** Words in Sch. 5 para. 25(1)(a) inserted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(12)(c)**

**F102** Words in Sch. 5 para. 25(1)(a) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(d)(i)**

**F103** Sch. 5 para. 25(1)(b) omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(d)(ii)**

**F104** Sch. 5 para. 25(1)(ba) inserted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(a), **6(6)(c)**

#### Marginal Citations

**M40** 2002 c. 38.

**M41** 1978 c. 28.

**M42** 1989 c. 41; section 14F was inserted by the Adoption and Children Act 2002.

[<sup>F105</sup>26. Any payment made to the claimant with whom a person is accommodated by virtue of arrangements made—

(a) by a local authority under—

(i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),

(ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

- (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).]

#### Textual Amendments

**F105** Sch. 5 para. 26 substituted (1.11.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2010 \(S.I. 2010/2429\)](#), regs. 1(2), **7(3)**

**27.** Any payment made to the claimant or his partner for a person (“the person concerned”), who is not normally a member of the claimant's household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948 <sup>M43</sup>; <sup>F106</sup> ...
- (e) a primary care trust established under section 16A of the National Health Service Act [<sup>F107</sup>1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006]<sup>M44</sup>.
- [<sup>F108</sup>(f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006.]

#### Textual Amendments

**F106** Word in Sch. 5 para. 27(d) omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(e)(i)**

**F107** Words in Sch. 5 para. 27(e) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(e)(ii)**

**F108** Sch. 5 para. 27(f) inserted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(e)(iii)**

#### Marginal Citations

**M43** 1948 c. 29; subsection (3A) was inserted by the [National Health Service and Community Care Act 1990 \(c. 19\)](#).

**M44** 1977 c. 49; section 16A was inserted by section 2 of the [Health Act 1999\(c. 8\)](#).

**28.** Any payment made by a local authority in accordance with section 17, [<sup>F109</sup>23B, 23C or 24A] of the Children Act 1989 <sup>M45</sup> or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 <sup>M46</sup> or section [<sup>F110</sup>22,] 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

#### Textual Amendments

**F109** Words in Sch. 5 para. 28 substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(9)(a)**



**F110** Word in Sch. 5 para. 28 inserted (1.11.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2010 \(S.I. 2010/2429\)](#), regs. 1(2), 7(4)

#### Marginal Citations

**M45** 1989 c. 41; section 23C was inserted by the [Children \(Leaving Care\) Act 2000 \(c. 35\)](#), section 2(4).

**M46** 1968 c. 49.

**[<sup>F111</sup>28A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the claimant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.]

#### Textual Amendments

**F111** Sch. 5 para. 28A inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), reg. 6(5)(a)

**29.**—(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

- (a) on a loan which is secured on the dwelling which the claimant occupies as his home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974<sup>M47</sup> or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964<sup>M48</sup>.

(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)(a) or, as the case may be, (b); and
- (b) meet any amount due by way of premiums on—
  - (i) that policy; or
  - (ii) in a case to which sub-paragraph (1)(a) applies, 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 and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

#### Marginal Citations

**M47** 1974 c. 39.

**M48** 1964 c. 53; Part 3 was substituted by the [Consumer Credit Act 1974 \(c. 39\)](#), [Schedule 4](#), paragraph 22.

**30.** Any payment of income which by virtue of regulation 46 (income treated as capital) is to be treated as capital.

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*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

31. Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).
32. Any payment under Part 10 of the Act (Christmas bonus for pensioners).
33. 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.
34. 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 25(2) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 60(2)(b) and regulation 61(1)(d) (calculation of covenant income where a contribution assessed), covenant income where no grant income or no contribution is assessed regulation 64(2) (treatment of student loans), regulation 65(3) (treatment of payments from access funds) and paragraphs 15 and 16 shall in no case exceed £20 per week.
- 35.—(1) Any payment made under [F112 or by] the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), the Fund, the Eileen Trust[F113], MFET Limited] or the Independent Living [F114 Fund (2006)].
- (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 [F112 or by] any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
  - any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia 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 or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under [F112 or by] any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- the person who is suffering from haemophilia or who is a qualifying person;
  - any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
  - any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under [F112 or by] any of the Trusts to which sub-paragraph (1) refers, where—
- that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - the payment is made either—
    - to that person's parent or step-parent; or

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- (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under [<sup>F112</sup>or by] any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the relevant date was a child, a young person or a 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.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust [<sup>F115</sup>, MFET Limited], the Skipton Fund or the London [<sup>F116</sup>Bombings] Relief Charitable Fund.

**Textual Amendments**

- F112** Words in Sch. 5 para. 35(1)-(5) 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)(f)**
- F113** Words in Sch. 5 para. 35(1) 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)(g)**
- F114** Words in Sch. 5 para. 35(1) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(4)(f)**
- F115** Words in Sch. 5 para. 35(7) 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)(g)**
- F116** Word in Sch. 5 para. 35(7) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(f)**

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

<sup>F117</sup>**37.** .....

**Status:** Point in time view as at 01/11/2010.  
**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

**Textual Amendments**  
**F117** Sch. 5 para. 37 omitted (14.4.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **6(5)(b)**

**F118** **38.** . . . . .

**Textual Amendments**  
**F118** Sch. 5 para. 38 omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(g)**

**39.** Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

**F119** **40.** . . . . .

**Textual Amendments**  
**F119** Sch. 5 para. 40 omitted (17.11.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(9)(b)**

**41.** Any payment in consequence of a reduction of council tax under section 13 or <sup>F120</sup>... section 80 of the Local Government Finance Act 1992 <sup>M49</sup> (reduction of liability for council tax).

**Textual Amendments**  
**F120** Words in Sch. 5 para. 41 omitted (14.4.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **6(5)(c)**

**Marginal Citations**  
**M49** 1992 c. 14.

**42.—(1)** 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 £20.00, 100 per cent. of such payments; or
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.

(2) In this paragraph “board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.

**F121** **43.** . . . . .

**Textual Amendments**

**F121** Sch. 5 para. 43 omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(g)**

**[<sup>F122</sup>44.—(1)** Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).

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

**Textual Amendments**

**F122** Sch. 5 para. 44 & 45 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(h)**

**[<sup>F122</sup>45.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).]

**Textual Amendments**

**F122** Sch. 5 para. 44 & 45 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(h)**

**46.** Any payment made by either the Secretary of State for [<sup>F123</sup>Justice] or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

**Textual Amendments**

**F123** Word in Sch. 5 para. 46 substituted (22.8.2007) by [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), art. 1(2), **Sch. para. 23(2)**

**[<sup>F124</sup>47.—(1)** Where a claimant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the claimant's former partner, or the claimant's partner's former partner.

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

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).]

**Textual Amendments**

**F124** Regs. 47-47A substituted (27.10.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(3), **3(12)(h)**

[<sup>F125</sup>**47A.**—(1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the claimant’s family, except where the person making the payment is the claimant or the claimant’s partner.

(2) In paragraph (1)—

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) the Child Support Act 1991;
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.]

**Textual Amendments**

**F125** [Sch. 5 para. 47A](#) substituted (1.4.2010 for specified purposes, 5.4.2010 for specified purposes) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(4), **6(6)(d)**

<sup>F126</sup>**48.** .....

**Textual Amendments**

**F126** [Sch. 5 para. 48](#) omitted (14.4.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **6(5)(b)**

**49.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 <sup>M50</sup> to assist disabled persons to obtain or retain employment despite their disability.

**Marginal Citations**

**M50** 1944 c. 10.

**50.** Any guardian's allowance.

[<sup>F127</sup>51. Any council tax benefit.]

**Textual Amendments**

**F127** Sch. 5 paras. 51-53 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(i)**

[<sup>F127</sup>52.—(1) ) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.]

**Textual Amendments**

**F127** Sch. 5 paras. 51-53 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(i)**

[<sup>F127</sup>53. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.]

**Textual Amendments**

**F127** Sch. 5 paras. 51-53 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(i)**

**54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983<sup>M51</sup> (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

**Marginal Citations**

**M51** [S.I. 1983/686](#); the relevant amending Instruments are [S.I. 1994/2021](#) and [2002/672](#).

**55.—(1)** Any payment which is—

(a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—

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

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

[<sup>F128</sup>(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.]

*Status: Point in time view as at 01/11/2010.*  
*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

(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).

**Textual Amendments**

**F128** Sch. 5 para. 55(1)(b) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(j)**

<sup>F129</sup>**55A.** . . . . .

**Textual Amendments**

**F129** Sch. 5 paras. 55A 55B omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(k)**

<sup>F129</sup>**55B.** . . . . .

**Textual Amendments**

**F129** Sch. 5 paras. 55A 55B omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(k)**

**56.** Except in a case which falls under sub-paragraph (1) of paragraph 17 of Schedule 4, where the claimant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to [<sup>F130</sup>£17.10.]

**Textual Amendments**

**F130** Sch. 5 para. 56 substituted (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(11)**

**57.** Any payment made <sup>F131</sup>... under section 12B of the Social Work (Scotland) Act 1968 [<sup>F132</sup>, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)] <sup>M52</sup> or under regulations made under section 57 of the Health and Social Care Act 2001 <sup>M53</sup> (direct payments).

**Textual Amendments**

**F131** Words in Sch. 5 para. 57 omitted (6.4.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **6(12)**

**F132** Words in Sch. 5 para. 57 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(11)**

**Marginal Citations**

**M52** 1968 c. 48; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

**M53** 2001 c. 15.



**58.**—(1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, 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<sup>F133</sup> ... <sup>M54</sup>.

#### Textual Amendments

**F133** Words in [Sch. 5 para. 58\(2\)](#) omitted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), [regs. 1\(3\)\(a\)](#), **8(10)(b)**

#### Marginal Citations

**M54** Chapter 4A was inserted by [S.I. 1998/1174](#).

**59.**—(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 or rent 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;
- “rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

**60.** Where the amount of 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.

**61.** 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.

**62.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001<sup>M55</sup>.

#### Marginal Citations

**M55** [S.I. 2001/1167](#).

**63.**—(1) Any payment made by a local authority or by the [<sup>F134</sup>Welsh Ministers], to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

(2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.

#### Textual Amendments

**F134** Words in Sch. 5 para. 63(1) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(6)(I)**

**[<sup>F135</sup>64.**—(1) £1.20 in relation to each week in which child benefit is payable to the claimant at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible.

(2) 65 pence in relation to each week in which child benefit is payable to the claimant other than at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible (and if there is more than one, 65 pence in relation to each such child or young person).

(3) In this paragraph —

“child” and “qualifying young person” have the meanings given in section 142 of the Act;

“treated as responsible” is to be construed in accordance with section 143 of the Act;

“the enhanced rate” has the meaning given in regulation 2(1)(a) of the Child Benefit (Rates) Regulations 2006.]

#### Textual Amendments

**F135** Sch. 5 para. 64 added (temp.) (5.1.2009) by [The Social Security \(Child Benefit Disregard\) Regulations 2008 \(S.I. 2008/3140\)](#), regs. 1(2), **4(2)**

**[<sup>F136</sup>65.** Any payment of child benefit.]

#### Textual Amendments

**F136** Sch. 5 para. 65 added (2.11.2009) by [The Housing Benefit and Council Tax Benefit \(Child Benefit Disregard and Child Care Charges\) Regulations 2009 \(S.I. 2009/1848\)](#), regs. 1(2)(b), **3(1)**

## SCHEDULE 6

Regulation 44

### Capital to be disregarded

**1.** The dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding regulation 25 (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—
  - (a) by a partner or relative of a single claimant or any member of the family as his home [<sup>F137</sup>where that person has attained the qualifying age for state pension credit or is incapacitated];
  - (b) by the former partner of the 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 or with whom he had formed a civil partnership that has been dissolved.

**Textual Amendments**

**F137** Words in Sch. 6 para. 4(a) substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **28(2)**

5. Where a claimant is on income support [<sup>F138</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance], the whole of his capital.

**Textual Amendments**

**F138** Words in Sch. 6 para. 5 substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **26(a)**

6. Where the claimant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on income-based jobseeker's allowance, the whole of the claimant's capital.

7. 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.

8.—(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 housing benefit 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.

(3) In the case of a person who is receiving assistance under the self-employment route, 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.

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

9.—(1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraphs 6, 8 or 9 of Schedule 5;
- [<sup>F139</sup>(b) an income-related benefit under Part 7 of the Act;]
- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (e) working tax credit and child tax credit <sup>F140</sup>...,
- [<sup>F141</sup>(f) an income-related employment and support allowance,]

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

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of housing benefit, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), “the award of housing benefit” means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the claimant—
  - (i) is the person who received the relevant sum; or
  - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

#### Textual Amendments

**F139** Sch. 6 para. 9(1)(b) substituted (14.4.2008) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **6(6)(a)**

**F140** Words in Sch. 6 para. 9(1)(e) omitted by virtue of S.I. 2005/2502, reg. 2(16) (as amended) (3.4.2006) by virtue of [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 27(16)** (with regs. 2, 3, Sch. 3, Sch. 4)

**F141** Sch. 6 para. 9(1)(f) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **26(b)**

10. 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 improvement to the home,

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

**11.** Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 <sup>M56</sup> or section 338(1) of the Housing (Scotland) Act 1987 <sup>M57</sup> 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 may be reasonable in the circumstances to enable the claimant to complete the purchase.

**Marginal Citations**

**M56** 1985 c. 69.

**M57** 1987 c. 26.

**12.** Any personal possessions except those which have been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to housing benefit or to increase the amount of that benefit.

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

**14.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant [<sup>F142</sup>or the claimant's partner], the value of the trust fund and the value of the right to receive any payment under that trust.

**Textual Amendments**

**F142** Words in Sch. 6 para. 14 inserted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), [reg. 15\(7\)\(a\)](#)

[<sup>F143</sup>**14A.**—(1) Any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

(2) But sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;
- (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).]

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

#### Textual Amendments

**F143** Sch. 6 para. 14A inserted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), [reg. 15\(7\)\(b\)](#)

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

**16.** The value of the right to receive any income which is disregarded under [<sup>F144</sup>paragraph 13 of Schedule 4] or paragraph 24 of Schedule 5.

#### Textual Amendments

**F144** Words in Sch. 6 para. 16 substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), [regs. 1\(2\), 3\(13\)\(a\)](#)

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

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

**19.** Any payment made by a local authority in accordance with section 17, [<sup>F145</sup>23B,] 23C or 24A of the Children Act 1989 <sup>M58</sup> or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 <sup>M59</sup> or sections [<sup>F146</sup>22,] 28 or 30 of the Children (Scotland) Act 1995 <sup>M60</sup> (provision of services for children and their families and advice and assistance to certain children).

#### Textual Amendments

**F145** Words in Sch. 6 para. 19 inserted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), [regs. 1\(2\), 6\(10\)\(a\)](#)

**F146** Word in Sch. 6 para. 19 inserted (1.11.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2010 \(S.I. 2010/2429\)](#), [regs. 1\(2\), 7\(4\)](#)

#### Marginal Citations

**M58** 1989 c. 41.

**M59** 1968 c. 49.

**M60** 1995 c. 36.

[<sup>F147</sup>**19A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the claimant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the claimant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.]

### Textual Amendments

**F147** Sch. 6 para. 19A inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), [reg. 6\(6\)\(b\)](#)

**20.** Any social fund payment made pursuant to Part 8 of the Act.

**21.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988<sup>M61</sup> (deduction 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 to the home.

### Marginal Citations

**M61** 1988 c. 1; section 369 was amended by the [Finance Act 1993 \(c. 34\)](#), [section 58](#), the [Finance Act 1994 \(c. 9\)](#), [section 81](#) and the [Finance Act 1996 \(c. 8\)](#), [section 132](#) and Schedule 18.

**22.** Any capital which by virtue of regulation 41 or 64 (capital treated as income and treatment of student loans) is to be treated as income.

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

**24.—(1)** Any payment made under [<sup>F148</sup>or by] the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), the Fund, the Eileen Trust<sup>F149</sup>, MFET Limited], the Independent Living [<sup>F150</sup>Fund (2006)], the Skipton Funds or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under [<sup>F148</sup>or by] any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia 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 or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under [<sup>F148</sup>or by] any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

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

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under [<sup>F148</sup>or by] any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
- (i) to that person's parent or step-parent; or
- (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under [<sup>F148</sup>or by] any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
- (i) to that person's parent or step-parent; or
- (ii) where that person at the relevant date was a child, a young person or a 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.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust<sup>F151</sup>, MFET Limited], the Skipton Fund or the London Bombings Relief Charitable Fund.

#### Textual Amendments

**F148** Words in Sch. 6 para. 24(1)-(5) 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)(g)**

**F149** Words in Sch. 6 para. 24(1) 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)(h)**

**F150** Words in Sch. 6 para. 24(1) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **6(4)(g)**

**F151** Words in Sch. 6 para. 24(7) 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)(h)**



**Status:** Point in time view as at 01/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

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

(2) In this paragraph “dwelling” includes any garage, garden and outbuildings, which were formerly occupied by the claimant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

**26.** Any premises where the 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.

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

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

<sup>F152</sup>**29.** .....

**Textual Amendments**

**F152** Sch. 6 para. 29 omitted (14.4.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **6(6)(c)**

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

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

**32.** The value of any funds held under a personal pension scheme<sup>F153</sup> ....

**Textual Amendments**

**F153** Words in Sch. 6 para. 32 omitted (16.7.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **4(7)**

**33.** 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.

**34.** Any payment in kind made by a charity or under [<sup>F154</sup>or by] the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, [<sup>F155</sup>the Fund<sup>F156</sup>...<sup>F157</sup>, MFET Limited] or the Independent Living Fund (2006)].

*Status: Point in time view as at 01/11/2010.  
Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

**Textual Amendments**

**F154** Words in Sch. 6 para. 34 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)(g)**

**F155** Words in Sch. 6 para. 34 substituted (1.10.2007) by [The Independent Living Fund \(2006\) Order 2007 \(S.I. 2007/2538\)](#), arts. 1, **8(3)**

**F156** Words in Sch. 6 para. 34 omitted (17.11.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(10)(b)**

**F157** Words in Sch. 6 para. 34 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(12)**

**35.** Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.

<sup>F158</sup>**36.** .....

**Textual Amendments**

**F158** Sch. 6 para. 36 omitted (17.11.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(10)(c)**

**37.** Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

**38.** Any grant made to the claimant in accordance with a scheme made under section 129 of the Housing Act 1988 <sup>M62</sup> or section 66 of the Housing (Scotland) Act 1988 <sup>M63</sup> (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.

**Marginal Citations**

**M62** 1988 c. 50.

**M63** 1988 c. 43.

[<sup>F159</sup>**39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.]

**Textual Amendments**

**F159** Sch. 6 paras. 39-41 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(a)**

**[<sup>F159</sup>40.—(1)** Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

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

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.]

**Textual Amendments**

**F159** Sch. 6 paras. 39-41 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(a)**

**[<sup>F159</sup>41.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.]

**Textual Amendments**

**F159** Sch. 6 paras. 39-41 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(a)**

**[<sup>F160</sup>41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).]

**Textual Amendments**

**F160** Sch. 6 para. 41A inserted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), **reg. 6(13)(a)**

**42.** Any payment made either by the Secretary of State for [<sup>F161</sup>Justice] or Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

#### Textual Amendments

**F161** Word in Sch. 6 para. 42 substituted (22.8.2007) by [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), art. 1(2), **Sch. para. 23(3)**

**43.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 <sup>M64F162</sup>... to assist disabled persons to obtain or retain employment despite their disability.

#### Textual Amendments

**F162** Word in Sch. 6 para. 43 omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(13)(f)**

#### Marginal Citations

**M64** 1944 c. 10 (7 & 8 Geo. 6).

**44.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 <sup>M65</sup> to homeworkers assisted under the Blind Homeworkers' Scheme.

#### Marginal Citations

**M65** 1958 c. 33.

- [<sup>F163</sup>**45.**—(1) Any sum of capital to which sub-paragraph (2) applies and—
- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 <sup>M66</sup> or by the Court of Protection;
  - (b) which can only be disposed of by order or direction of any such court; or
  - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
- (2) This sub-paragraph applies to a sum of capital which is derived from—
- (a) an award of damages for a personal injury to that person; or
  - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.]

#### Textual Amendments

**F163** Sch. 6 para. 45 substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), **reg. 15(7)(c)**

#### Marginal Citations

**M66** S.I. 1998/3132.

**46.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995 <sup>M67</sup> or under Rule 36.14 of the Ordinary Cause Rules 1993 <sup>M68</sup> or under Rule 128 of those Rules, where such sum derives from—

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

**Marginal Citations**

**M67** 1995 c. 36.

**M68** 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](#).

**47.** Any payment to the claimant as holder of the Victoria Cross or George Cross.

**48.** The amount of any child maintenance bonus payable by way of jobseeker's allowance or income support in accordance with section 10 of the Child Support Act 1995 <sup>M69</sup>, or a corresponding payment under Article 4 of the Child Support (Northern Ireland) Order 1995 <sup>M70</sup>, but only for a period of 52 weeks from the date of receipt.

**Marginal Citations**

**M69** 1995 c. 34.

**M70** [S.I. 1995/2702](#).

<sup>F164</sup>**48A.** . . . . .

**Textual Amendments**

**F164** Sch. 6 paras. 48A 48B omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(b)**

<sup>F164</sup>**48B.** . . . . .

**Textual Amendments**

**F164** Sch. 6 paras. 48A 48B omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(b)**

**49.** In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

**50.—(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).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent 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)—

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

“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; “rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

**51.—(1) Any payment—**

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996 <sup>M71</sup> (payment of school expenses; grant of scholarships etc);
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 <sup>M72</sup> (power to assist persons to take advantage of educational facilities);
  - <sup>F165</sup>(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or]
- (b) corresponding to such an education maintenance allowance, made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002 <sup>M73</sup> (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
  - (a) regulations made under section 518 of the Education Act 1996 <sup>M74</sup>;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - <sup>F166</sup>(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,]

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).

**Textual Amendments**

**F165** Sch. 6 para. 51(1)(a)(iii) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(c)(i)**

**F166** Sch. 6 para. 51(2)(c) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(c)(ii)**

**Marginal Citations**

**M71** 1996 c. 56.

**M72** 1980 c. 44.

**M73** 2002 c. 32.

**M74** 1996 c. 30; section 518 was substituted by the [School Standards and Framework Act 1998 \(c. 31\)](#), **section 129**.

**52.** 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.

**53.** 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.

**54.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—

- (a) the claimant;
- (b) the claimant's partner;
- (c) the claimant's deceased spouse or deceased civil partner; or
- (d) the claimant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

**55.**—(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of a claimant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the [F167date] of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of [F16820]whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to a claimant or a member of a claimant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
  - (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person—
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of [F16920]
- whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

#### Textual Amendments

**F167** Word in Sch. 6 para. 55(1)(b) substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **3(13)(g)**

**F168** Word in Sch. 6 para. 55(2)(c)(ii)(bb) (c)(ii) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **4(5)**

**F169** Word in Sch. 6 para. 55(4)(c)(ii)(bb) (c)(ii) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **4(5)**

**56.** The amount of any payment, other than a war pension <sup>F170</sup>...<sup>M75</sup>, to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or deceased civil partner or the claimant's partner's deceased spouse or deceased civil partner—

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.



**Status:** Point in time view as at 01/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

#### Textual Amendments

**F170** Words in Sch. 6 para. 56 omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(d)**

#### Marginal Citations

**M75** 1989 c. 24.

**57.**—(1) Any payment made by a local authority, or by the [<sup>F171</sup>Welsh Ministers], to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes in England a county council.

#### Textual Amendments

**F171** Words in Sch. 6 para. 57(1) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **5(7)(e)**

**58.** Any payment made <sup>F172</sup>... regulations made under section 57 of the Health and Social Care Act 2001 <sup>M76</sup> or under section 12B of the Social Work (Scotland) Act 1968 [<sup>F173</sup>, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)]<sup>M77</sup>.

#### Textual Amendments

**F172** Words in Sch. 6 para. 58 omitted (6.4.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **6(13)(b)**

**F173** Words in Sch. 6 para. 58 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(11)**

#### Marginal Citations

**M76** 2001 c. 15.

**M77** 1968 c. 48; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

**59.** Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 <sup>M78</sup>.

#### Marginal Citations

**M78** 2002 c. 38.

**60.** Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 <sup>M79</sup> (special guardianship support services).

#### Marginal Citations

**M79** 1989 c. 41; section 14F was inserted by the [Adoption and Children Act 2002 \(c. 38\)](#), **section 115(1)**.

**Status:** Point in time view as at 01/11/2010.  
**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

SCHEDULE 7

F174

...

Extended payments of housing benefit

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

F174 .....  
• .....

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

F174 .....  
• .....

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

F174 .....  
• .....

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

F174 .....  
• .....

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

F174 .....  
• .....

**Status:** Point in time view as at 01/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

**F174** . . . . .

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

**F174** . . . . .

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

**F174** . . . . .

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

**F174** . . . . .

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

**F174** . . . . .

**Textual Amendments**

**F174** Sch. 7 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(e)**

**Status:** Point in time view as at 01/11/2010.  
**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

F174 . . . . .

**Textual Amendments**  
F174 Sch. 7 omitted (6.10.2008) by virtue of The Housing Benefit and Council Tax Benefit (Extended Payments) Amendment Regulations 2008 (S.I. 2008/959), regs. 1(1), 4(4)(e)

SCHEDULE 8

Regulation 73

Extended Payments (severe disablement allowance and incapacity benefit) of housing benefit

F175 ...

F175 . . . . .

**Textual Amendments**  
F175 Sch. 8 omitted (6.10.2008) by virtue of The Housing Benefit and Council Tax Benefit (Extended Payments) Amendment Regulations 2008 (S.I. 2008/959), regs. 1(1), 4(4)(f)

F175 . . . . .

**Textual Amendments**  
F175 Sch. 8 omitted (6.10.2008) by virtue of The Housing Benefit and Council Tax Benefit (Extended Payments) Amendment Regulations 2008 (S.I. 2008/959), regs. 1(1), 4(4)(f)

F175 . . . . .

**Textual Amendments**  
F175 Sch. 8 omitted (6.10.2008) by virtue of The Housing Benefit and Council Tax Benefit (Extended Payments) Amendment Regulations 2008 (S.I. 2008/959), regs. 1(1), 4(4)(f)

F175 . . . . .

**Textual Amendments**  
F175 Sch. 8 omitted (6.10.2008) by virtue of The Housing Benefit and Council Tax Benefit (Extended Payments) Amendment Regulations 2008 (S.I. 2008/959), regs. 1(1), 4(4)(f)

**Status:** Point in time view as at 01/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

F175 . . . . .

**Textual Amendments**

**F175** Sch. 8 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(f)**

F175 . . . . .

**Textual Amendments**

**F175** Sch. 8 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(f)**

F175 . . . . .

**Textual Amendments**

**F175** Sch. 8 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(f)**

F175 . . . . .

**Textual Amendments**

**F175** Sch. 8 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(f)**

F175 . . . . .

**Textual Amendments**

**F175** Sch. 8 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(f)**

F175 . . . . .

**Textual Amendments**

**F175** Sch. 8 omitted (6.10.2008) by virtue of [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(4)(f)**

**Status:** Point in time view as at 01/11/2010.  
**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

## SCHEDULE 9

Regulation 90

Matters to be included in decision notice

### **PART 1**

#### General

1. The statement of matters to be included in any decision notice issued by a relevant authority to a person, and referred to in regulation 90 (notification of decisions) and in regulation 10 of the Decisions and Appeals Regulations are those matters set out in the following provisions of this Schedule.

2. Every decision notice shall include a statement as to the right of any person affected by that decision to request a written statement under regulation 90(2) (requests for statement of reasons) and the manner and time in which to do so.

3. Every decision notice shall include a statement as to the right of any person affected by that decision to make an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations and, where appropriate, to appeal against that decision and the manner and time in which to do so.

4. Every decision notice following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations shall include a statement as to whether the original decision in respect of which the person made his representations has been confirmed or revised and where the relevant authority has not revised the decision the reasons why not.

5. Every decision notice following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations shall, if the original decision has been revised, include a statement as to the right of any person affected by that decision to apply for a revision in accordance with regulation 4(1)(a) of those Regulations and the manner and time in which to do so.

6. An authority may include in the decision notice any other matters not prescribed by this Schedule which it sees fit, whether expressly or by reference to some other document available without charge to the person.

7. Parts 2, 3 and 6 of this Schedule shall apply only to the decision notice given on a claim.

8. Where a decision notice is given following a revision of an earlier decision—

- (a) made of the authority's own motion which results in a revision of that earlier decision; or
- (b) made following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations, whether or not resulting in a revision of that earlier decision,

that notice shall, subject to paragraph 6, contain a statement only as to all the matters revised.

## PART 2

Awards where income support<sup>F176</sup>, an income-based jobseeker's allowance, an income-related employment and support allowance<sup>F177</sup>, an extended payment or an extended payment (qualifying contributory benefits)] is payable

### Textual Amendments

**F176** Words in Sch. 9 Pt. 2 heading substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **27(a)(i)**

**F177** Words in Sch. 9 Pt. 2 heading inserted (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(5)(a)**

9. Where a person on income support<sup>F178</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] is awarded housing benefit <sup>F179</sup> or a claimant is entitled to an extended payment in accordance with regulation 72 or an extended payment (qualifying contributory benefits) in accordance with regulation 73], the decision notice shall include a statement as to—

- (a) his weekly eligible rent, if any; and
- (b) the amount and an explanation of any deduction made under paragraph 6(2) or (3) of Schedule 1 (fuel deductions), if any, and that the deduction may be varied if he provides to the authority evidence on which it may estimate the actual or approximate amount of that service charge; and
- (c) the amount of and the category of non-dependant deductions made under regulation 74, if any; and
- (d) the normal weekly amount of rent allowance, or rent rebate as the case may be, to which he is entitled; and
- (e) in the case of a rent allowance or a rent rebate paid as if it were a rent allowance, the day of payment, and the period in respect of which payment of that allowance is to be made; and
- (f) the first day of entitlement to an allowance or rebate; and
- (g) his duty to notify any change of circumstances which might affect his entitlement to, or the amount of, housing benefit and (without prejudice to the extent of the duty owed under regulation 88 (duty to notify changes of circumstances)) the kind of change of circumstances which is to be notified, either upon the notice or by reference to some other document available to him on application and without charge.

### Textual Amendments

**F178** Words in Sch. 9 para. 9 substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **27(a)(ii)**

**F179** Words in Sch. 9 para. 9 inserted (6.10.2008) by [The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **4(5)(b)**

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

## PART 3

Awards where no income support [<sup>F180</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] is payable

### Textual Amendments

**F180** Words in Sch. 9 para. 10 substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **27(b)(i)**

**10.** Where a person is not on income support [<sup>F181</sup>, an income-based jobseeker's allowance or on an income-related employment and support allowance] but is awarded housing benefit, the decision notice shall include a statement as to—

- (a) the matters set out in paragraph 9; and
- (b) his applicable amount and how it is calculated; and
- (c) his weekly earnings; and
- (d) his weekly income other than earnings.

### Textual Amendments

**F181** Words in Sch. 9 para. 10 substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **27(b)(ii)**

## PART 4

Awards where direct payments made to landlords

**11.** Where a decision has been made under regulation 95 or 96 (circumstances in which payment is to be made, or may be made, direct to a landlord), the decision notice shall include a statement—

- (a) as to the amount of housing benefit which is to be paid direct to the landlord and the date from which it is to be paid; and
- (b) informing the landlord of the duty imposed upon him to notify the local authority of—
  - (i) any change in circumstances which might affect the claimant's entitlement to housing benefit, or the amount of housing benefit payable in his case; and
  - (ii) the kind of change of circumstances which is to be notified;
- (c) informing both landlords and claimants that where a payment of housing benefit is recoverable from a landlord and the recovery is made from housing benefit payable to the landlord to discharge (in whole or in part) an obligation owed to him by a claimant, then, in a case where that claimant is not the person on whose behalf the recoverable amount was paid, that obligation shall nonetheless be taken to be discharged by the amount so recovered,

and the notice shall be sent both to the claimant and to the landlord.

**12.** In this Schedule, “landlord” has the same meaning as in regulation 95.



## PART 5

### Notice where income of non-dependant is treated as claimant's

**13.** Where an authority makes a decision under regulation 26 (circumstances in which income and capital of a non-dependant is to be treated as claimant's) the decision notice shall contain a statement as to—

- (a) the fact that a decision has been made by reference to the income and capital of the claimant's non-dependant; and
- (b) the relevant authority's reasons for making that decision.

## PART 6

### Notice where no award is made

**14.** Where a person is not awarded housing benefit—

- (a) either on grounds of income or because the amount of any housing benefit is less than the minimum housing benefit prescribed by regulation 75, the decision notice shall include a statement as to—
  - (i) the matters set out in paragraphs 9(a) to (c), and in a case where the amount of entitlement is less than the minimum amount of housing benefit prescribed, paragraph 9(d) also; and
  - (ii) the matters set out in paragraphs 10(b) to (d) where the person is not on income support<sup>F182</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance]; and
  - (iii) where the amount of entitlement is less than the minimum amount of housing benefit prescribed, that fact and that such entitlement is not payable;
- (b) for any reason other than one mentioned in sub-paragraph (a), the decision notice shall include a statement as to the reason why no award has been made.

#### Textual Amendments

**F182** Words in Sch. 9 para. 14(a)(ii) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **27(c)**

## PART 7

### Notice where recoverable overpayment

**15.—(1)** Where the appropriate authority makes a decision that there is a recoverable overpayment within the meaning of regulation 100 (recoverable overpayments), the decision notice shall include a statement as to—

- (a) the fact that there is a recoverable overpayment; and
- (b) the reason why there is a recoverable overpayment; and
- (c) the amount of the recoverable overpayment; and
- (d) how the amount of the recoverable overpayment was calculated; and
- (e) the benefit weeks to which the recoverable overpayment relates; and

**Status:** Point in time view as at 01/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

- (f) where recovery of the recoverable overpayment is to be made by deduction from a rent allowance or rebate, as the case may be, that fact and the amount of the deduction.
- (2) In a case where it is—
- (a) determined that there is a recoverable overpayment;
  - (b) determined that that overpayment is recoverable from a landlord; and
  - (c) decided that recovery of that overpayment is to be made by deduction from a rent allowance paid to that landlord to discharge (in whole or in part) an obligation owed to him by a claimant (“claimant A”), not being the claimant on whose behalf the recoverable amount was paid,
- the decision notice sent to that landlord shall identify both—
- (i) the person on whose behalf the recoverable amount was paid to that landlord; and
  - (ii) claimant A.

[<sup>F183</sup>SCHEDULE 10

Regulation 122

Former pathfinder authorities

**Textual Amendments**

**F183** Sch. 10 substituted (7.4.2008) by [The Housing Benefit \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2868\)](#), regs. 1(4), **20(2)**

**PART 1**

**Former pathfinder authorities**

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**Pathfinder authority**

Argyll and Bute  
Blackpool  
Brighton and Hove  
Conwy  
Coventry  
East Riding of Yorkshire  
Edinburgh  
Guildford  
Leeds  
Lewisham  
North East Lincolnshire  
Norwich  
Pembrokeshire

St Helens  
Salford  
South Norfolk  
Teignbridge  
Wandsworth

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## PART 2

### Application of the Regulations

1. These Regulations shall apply to former pathfinder authorities subject to the provisions of this Part of this Schedule.

#### Amendment of regulation 2

2. In regulation 2(1) (interpretation)—
- (a) in the definition of “eligible rent”, in sub-paragraph (a) for “or 12D (eligible rent and maximum rent (LHA))” substitute “, 12D (eligible rent and maximum rent (LHA)) or any of regulations 12E to 12K (transitional protection for pathfinder cases)”;
  - (b) after the definition of “maximum rent (LHA)” insert—  
““maximum rent (standard local rent)” means a maximum rent (standard local rate) determined in accordance with regulation 13A;”.

#### Amendment of regulation 11

3. In regulation 11(1) (eligible housing costs)—
- (a) in paragraph (c) omit “or”; and
  - (b) after sub-paragraph (d) insert—  
“; or
  - (e) any of regulations 12E to 12K (transitional protection for pathfinder cases) and regulations 13C (when a maximum rent (LHA) is to be determined) and 13D (determination of a maximum rent (LHA)),”.

#### Amendment of regulation 12B

4. In regulation 12B(1) (eligible rent) for “or 12D (eligible rent and maximum rent (LHA))” substitute “, 12D (eligible rent and maximum rent (LHA)) or any of regulations 12E to 12K (transitional protection for pathfinder cases)”.

#### Amendment of regulation 12D

5. In regulation 12D (eligible rent and maximum rent (LHA)) before paragraph (1) insert—  
“(A1) This regulation shall not apply where any of regulations 12E to 12K (transitional protection for pathfinder cases) apply.”

#### Insertion of regulations 12E to 12K

6. After regulation 12D (eligible rent and maximum rent (LHA)) insert—

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

#### **“Basic transitional protection for pathfinder cases**

**12E.**—(1) This regulation applies where—

- (a) reference was made to a maximum rent (standard local rate) in determining the amount of the eligible rent which applied immediately before 7th April 2008;
- (b) on 7th April 2008 the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(a); and
- (c) regulations 12F (cases where the claimant enjoyed protection on death before 7th April 2008) and 12G (cases where the claimant enjoyed 13 week protection before 7th April 2008) do not apply.

(2) Where this regulation applies, the claimant’s eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before 7th April 2008; or
- (b) the amount of the eligible rent which applied immediately before 7th April 2008.

(3) Where the eligible rent is the amount of the eligible rent which applied immediately before 7th April 2008, it will continue to apply until, on or after 7th April 2008, the first of the following events occurs—

- (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a larger category of dwelling and the maximum rent (LHA) is higher than that eligible rent;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a smaller category of dwelling;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12H (cases where a death occurs in the first year on or after 7th April 2008) following the death of a linked person;
- (e) the relevant authority determines a maximum rent (LHA) on 7th April 2009 by virtue of regulation 13C(4A)(b).

(4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

#### **Cases where the claimant enjoyed protection on death before 7th April 2008**

**12F.**—(1) This regulation applies where—

- (a) immediately before 7th April 2008 the claimant enjoyed protection on death in accordance with regulation 12A(4)(a)(ii) (pathfinder protection on death based on reckonable rent); and
- (b) on 7th April 2008 the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(a).

(2) Where this regulation applies, the claimant’s eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before 7th April 2008; or

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*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

- (b) the amount of the eligible rent which applied immediately before 7th April 2008.
- (3) Where the eligible rent is the amount of the eligible rent which applied immediately before 7th April 2008, it will continue to apply until, on or after 7th April 2008, the first of the following events occurs —
  - (a) the end of 12 months after the death to which the protection relates;
  - (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
  - (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12H (cases where a death occurs in the first year on or after 7th April 2008) following the death of a linked person;
- (4) Where the eligible rent ceases to apply because of paragraph (3)(a), the eligible rent will be the maximum rent (LHA) which would have applied but for the transitional protection.
- (5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

#### **Cases where the claimant enjoyed 13 week protection before 7th April 2008**

- 12G.**—(1) This regulation applies where—
- (a) immediately before 7th April 2008 the claimant enjoyed 13 week protection in accordance with regulation 12A(6)(a) (local housing allowance pathfinder 13 week protection); and
  - (b) on 7th April 2008 the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(a).
- (2) Where this regulation applies, the claimant’s eligible rent is—
- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before 7th April 2008; or
  - (b) the amount of the eligible rent which applied immediately before 7th April 2008.
- (3) Where the eligible rent is the amount of the eligible rent which applied immediately before 7th April 2008, it will continue to apply until, on or after 7th April 2008, the first of the following events occurs —
- (a) the end of the day when the protection expires, namely 13 weeks after the date of the claim;
  - (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
  - (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12H (cases where a death occurs in the first year on or after 7th April 2008) following the death of a linked person.

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

(4) Where the eligible rent ceases to apply because of paragraph (3)(a), the eligible rent will be the maximum rent (LHA) which would have applied but for the transitional protection.

(5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

### **Cases where a death occurs in the first year on or after 7th April 2008**

**12H.**—(1) This regulation applies where—

- (a) the eligible rent is that specified in regulation 12E(2)(b) (basic transitional protection for pathfinder cases), 12F(2)(b) (transitional protection where the claimant enjoyed protection on death before 7th April 2008), 12G(2)(b) (transitional protection where the claimant enjoyed 13 week protection before 7th April 2008) or paragraph (2)(b) of this regulation;
- (b) a linked person dies on or after 7th April 2008 and before 7th April 2009;
- (c) the claimant occupies the same dwelling as the linked person at the date of death; and
- (d) the relevant authority determines a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) or (ii) (change of category of dwelling or death of a linked person).

(2) Where this regulation applies, the claimant's eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death; or
- (b) the amount of the eligible rent which applied immediately before the date of the death.

(3) Where the eligible rent is the amount of the eligible rent which applied immediately before the date of death, it will continue to apply until, on or after the date of the death, the first of the following events occurs —

- (a) the end of 12 months from the date of the death;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with this regulation following the death of another linked person.

(4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

(5) For the purposes of paragraph (1)(c), a claimant shall be treated as occupying the dwelling if regulation 7(13) is satisfied and for that purpose paragraph (13) of regulation 7 shall have effect as if sub-paragraph (b) were omitted.

### **Basic transitional protection in the second year and subsequent years after 7th April 2008**

- 12I.**—(1) This regulation applies where—
- (a) immediately before 7th April 2009 the claimant was enjoying basic transitional protection under regulation 12E; and
  - (b) the local authority determines a maximum rent (LHA) by virtue of 13C(4A)(b) on 7th April 2009.
- (2) Where this regulation applies, the claimant’s eligible rent is—
- (a) the maximum rent (LHA) where it is higher than the eligible rent applying immediately before 7th April 2008; or
  - (b) in any other case, the lower of—
    - (i) the amount of the eligible rent applying immediately before 7th April 2008; or
    - (ii) the amount of the cap rent by reference to which the maximum rent (LHA) was determined, plus £15.
- (3) Where the claimant’s eligible rent is determined in accordance with paragraph (2) (b), it continues to apply until, on or after 7th April 2009, the first of the following events occurs—
- (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a larger category of dwelling or 13C(3) (anniversary of the LHA date) and the maximum rent (LHA) is higher than that eligible rent;
  - (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a smaller category of dwelling;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
  - (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12K (protection on death in the second and subsequent years after 7th April 2008) following the death of a linked person.
- (4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

### **Transitional protection in the second year after 7th April 2008 where the claimant is already enjoying protection on death**

- 12J.**—(1) This regulation applies where—
- (a) immediately before 7th April 2009 the claimant was enjoying transitional protection on death under regulation 12H (cases where a death occurs in the first year on or after 7th April 2008); and
  - (b) the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(b) on 7th April 2009 .
- (2) Where this regulation applies, the claimant’s eligible rent is—
- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death to which the protection relates; or

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*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

- (b) the amount of the eligible rent which applied immediately before the date of the death.
- (3) Where the eligible rent which applies is the one that applied immediately before the date of the death, it continues to apply until, on or after the date of the death, the first of the following events occurs—
  - (a) the end of 12 months after the date of the death to which the protection relates;
  - (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
  - (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12K (protection on death in the second and subsequent years after 7th April 2008) following the death of a linked person.
- (4) Where the eligible rent ceases to apply because of paragraph (3)(a) the eligible rent is the one that would have applied if the relevant authority not determined an eligible rent in accordance with regulation 12H(2)(b) (transitional protection where a death occurs in the first year on or after 7th April 2008).
- (5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

#### **Protection on death in the second and subsequent years after 7th April 2008**

- 12K.**—(1) This regulation applies where—
- (a) the claimant’s eligible rent is that specified in regulation 12I(2)(b) (basic transitional protection in the second and subsequent years after 7th April 2008), 12J(2)(b) (transitional protection in the second year after 7th April 2008 where the claimant is already enjoying protection on death) or paragraph (2)(b) of this regulation;
  - (b) a linked person dies on or after 7th April 2009;
  - (c) the claimant occupies the same dwelling as the linked person at the date of death; and
  - (d) the relevant authority determines a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) or (ii) (change of category of dwelling or death of a linked person).
- (2) Where this regulation applies, the claimant’s eligible rent is—
- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death; or
  - (b) the amount of eligible rent which applied immediately before the death.
- (3) Where the eligible rent which applies is the one that applied immediately before the date of the death, it will continue to apply until, on or after the date of the death, the first of the following events occurs—
- (a) the end of 12 months from the date of the death;



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- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) or (3) (change of category of dwelling or anniversary of the LHA date) and it is higher than that eligible rent;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
  - (d) the relevant authority is required to determine an eligible rent in accordance with this regulation following the death of another linked person.
- (4) Where the eligible rent ceases to apply because of paragraph (3)(a) the eligible rent is the one that would have applied but had the relevant authority not determined an eligible rent in accordance with this regulation.
- (5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).
- (6) For the purposes of paragraph (1)(c), a claimant shall be treated as occupying the dwelling if regulation 7(13) is satisfied and for that purpose paragraph (13) of regulation 7 shall have effect as if sub-paragraph (b) were omitted.”.

#### **Amendment of regulation 13C**

7. In regulation 13C (when a maximum rent (LHA) is to be determined)—
- (a) in paragraph (1) for “paragraphs (2) or (3)” substitute “paragraphs (2), (3) or (4A)”;
  - (b) in paragraph (3) after “LHA date” insert “except where paragraph (4A)(b) applies”;
  - (c) after paragraph (4) insert—
    - “(4A) This paragraph applies where it is—
    - (a) 7th April 2008 and reference was made to a maximum rent (standard local rate) in determining the amount of the eligible rent which applied immediately before 7th April 2008; or
    - (b) 7th April 2009 and the eligible rent which applies on that date was determined in accordance with regulation 12E(2)(b) (basic transitional protection for pathfinder cases) or 12H(2)(b) (transitional protection where a death occurs in the first year on or after 7th April 2008).”.

#### **Amendment of regulation 13D**

8. In regulation 13D(12) (determination of a maximum rent (LHA)) in the definition of “relevant date” after sub-paragraph (c) insert—
- “(d) 7th April 2008;
  - (e) 7th April 2009.”.]

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)*

## [<sup>F184</sup>SCHEDULE 11

### Electronic Communication

#### Textual Amendments

**F184** Sch. 11 inserted (20.12.2006) by [The Housing Benefit and Council Tax Benefit \(Electronic Communications\) Order 2006 \(S.I. 2006/2968\)](#), arts. 1, 2(5), **Sch.**

## PART 1

### Introduction

#### Interpretation

1. In this Schedule “official computer system” means a computer system maintained by or on behalf of the relevant authority or of the Secretary of State for sending, receiving, processing or storing of any claim, certificate, notice, information or evidence.

## PART 2

### Electronic Communication – General Provisions

#### Conditions for the use of electronic communication

2.—(1) The relevant authority may use an electronic communication in connection with claims for, and awards of, benefit under these Regulations.

(2) A person other than the relevant authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the relevant authority.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any claim or notice delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the relevant authority any claim, certificate, notice, information or evidence.

(5) The third condition is that any claim, certificate, notice, information or evidence sent by means of an electronic communication is in a form approved for the purposes of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the relevant authority.

(7) Where the person uses any method other than the method approved of submitting any claim, certificate, notice, information or evidence, that claim, certificate, notice, information or evidence shall be treated as not having been submitted.

(8) In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the relevant authority for the purposes of this Schedule.

### **Use of intermediaries**

3. The relevant authority may use intermediaries in connection with—
- (a) the delivery of any claim, certificate, notice, information or evidence by means of an electronic communication; and
  - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

## **PART 3**

### **Electronic Communication – Evidential Provisions**

#### **Effect of delivering information by means of electronic communication**

4.—(1) Any claim, certificate, notice, information or evidence which is delivered by means of an electronic communication shall be treated as having been delivered in the manner or form required by any provision of these Regulations, on the day the conditions imposed—

- (a) by this Schedule; and
- (b) by or under an enactment,

are satisfied.

(2) The relevant authority may, by a direction, determine that any claim, certificate, notice, information or evidence is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

(3) Information shall not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

#### **Proof of identity of sender or recipient of information**

5. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—
- (a) the sender of any claim, certificate, notice, information or evidence delivered by means of an electronic communication to an official computer system; or
  - (b) the recipient of any such claim, certificate, notice, information or evidence delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, shall be presumed to be the person whose name is recorded as such on that official computer system.

#### **Proof of delivery of information**

6.—(1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any claim, certificate, notice, information or evidence this shall be presumed to have been the case where—

- (a) any such claim, certificate, notice, information or evidence has been delivered to the relevant authority, if the delivery of that claim, certificate, notice, information or evidence has been recorded on an official computer system; or

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**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit Regulations 2006. (See end of Document for details)

(b) any such claim, certificate, notice, information or evidence has been delivered by the relevant authority, if the delivery of that certificate, notice, information or evidence has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such claim, certificate, notice, information or evidence, this shall be presumed not to be the case, if that claim, certificate, notice, information or evidence delivered to the relevant authority has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such claim, certificate, notice, information or evidence sent by means of an electronic communication has been received, the time and date of receipt shall be presumed to be that recorded on an official computer system.

#### **Proof of content of information**

7. If it is necessary to prove, for the purpose of any legal proceedings, the content of any claim, certificate, notice, information or evidence sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system..]

**Status:**

Point in time view as at 01/11/2010.

**Changes to legislation:**

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