

## SCHEDULE 4

Regulation 36(1)

### Sums disregarded from claimant's earnings

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—

- (a) £25 in the case of a lone parent;
- (b) £20 in any other case.

2. In a case where a claimant is a lone parent, £25 of earnings.

3.—(1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—

[<sup>F1</sup>(a) a part-time fire-fighter employed by a fire and rescue authority under the Fire and Rescue Services Act 2004 or by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005;]

- (c) as an auxiliary coastguard in respect of coast rescue activities;
- (d) in the manning or launching of a lifeboat if the employment is part-time;
- (e) as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to Social Security (Contributions) Regulations 2001 <sup>F2</sup>.

(3) If—

- (a) any of the earnings of the claimant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
- (b) either of them has, or they both have, other earnings,

so much of those other earnings as would not, in aggregate with the earnings disregarded under that sub-paragraph, exceed £20.

#### Textual Amendments

**F1** Sch. 4 para. 3(2)(a) substituted for Sch. 4 para. 3(2)(a)(b) (29.10.2013) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), 12(5)

**F2** S.I. 2001/1004.

4.—(1) If the claimant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

(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.

(3) In this paragraph the claimant or his partner is a carer if paragraph 9 of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.

5.—(1) £20 is disregarded if the claimant or, if he has a partner, his partner—

- (a) is in receipt of—
  - (i) long-term incapacity benefit under Section 30A of the Act <sup>F3</sup>;
  - (ii) severe disablement allowance under section 68 of the Act <sup>F4</sup>;
  - (iii) attendance allowance;

**Status:** Point in time view as at 01/04/2022.

**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SCHEDULE 4. (See end of Document for details)

- (iv) disability living allowance under sections 71 to 76 of the Act <sup>F5</sup>;
- (v) any mobility supplement under [<sup>F6</sup>article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006] (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 <sup>F7</sup>; <sup>F8</sup> ...
- (vi) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit Regulations <sup>F9</sup>; or
- [<sup>F10</sup>(vii) main phase employment and support allowance; <sup>F11</sup> ...]
- [<sup>F12</sup>(viii) personal independence payment; <sup>F13</sup> ...]
- [<sup>F14</sup>(ix) armed forces independence payment; or]
- [<sup>F15</sup>(b) is or are certified as severely sight impaired or blind by a consultant ophthalmologist; or]
- (c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act <sup>F16</sup> (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
  - (i) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of that Act <sup>F17</sup>, 196 days;
  - (ii) in any other case, 364 days; [<sup>F18</sup>or]
- [<sup>F18</sup>(d) has, or is treated as having, limited capability for work within the meaning of section 1(4) of the Welfare Reform Act or limited capability for work-related activity within the meaning of section 2(5) of that Act and 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 [<sup>F19</sup>or regulation 7 of the Employment and Support Allowance Regulations 2013] (circumstances where the condition that the assessment phase has ended before entitlement to the support component <sup>F20</sup> ... arises does not apply) applies.]
- (2) Subject to sub-paragraph (3), £20 is disregarded if the claimant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the claimant or his partner attains the qualifying age for state pension credit, had an award of housing benefit <sup>F21</sup> ... and—
  - (a) £20 was disregarded in respect of earnings taken into account in that award;
  - (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.
- (3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's entitlement to housing benefit <sup>F22</sup> ... or in employment following the first day in respect of which that benefit is awarded.
- (4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the claimant has a partner, both the claimant and his partner satisfy the requirements of this paragraph.

### Textual Amendments

- F3** Section 30A was inserted by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#) and amended by the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), [section 64](#) and the [Civil Partnership Act 2004 \(c. 33\)](#), [section 254](#) and Schedule 24, paragraph 14.

**Status:** Point in time view as at 01/04/2022.

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- F4** Saved by S.I. 2000/2958, **article 4**.
- F5** Sections 71, 72 and 73 are amended by the *Welfare Reform and Pensions Act 1999 (c. 30)*, **section 67**.
- F6** Words in Sch. 4 para. 5(1)(a)(v) substituted (5.1.2009) by *The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157)*, regs. 1(1), **6(8)**
- F7** S.I. 1983/686; amended by S.I. 1983/1164 and /1540 and 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420.
- F8** Word in Sch. 4 para. 5(1)(a)(v) omitted (27.10.2008) by virtue of *Employment and Support Allowance (Consequential Provisions) Regulations 2008 (S.I. 2008/1082)*, regs. 1, **40(a)**
- F9** Schedule 2 was substituted by S.I. 2005/681.
- F10** Sch. 4 para. 5(1)(a)(vii) added (27.10.2008) by *Employment and Support Allowance (Consequential Provisions) Regulations 2008 (S.I. 2008/1082)*, regs. 1, **40(b)**
- F11** Word in Sch. 4 para. 5(1)(a)(vii) omitted (8.4.2013) by virtue of *The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388)*, reg. 2, **Sch. para. 37(8)(a)**
- F12** Sch. 4 para. 5(1)(a)(viii) inserted (8.4.2013) by *The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388)*, reg. 2, **Sch. para. 37(8)(b)**
- F13** Word in Sch. 4 para. 5(1)(a)(viii) omitted (8.4.2013) by virtue of *The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591)*, art. 2(2), **Sch. para. 35(8)(a)**
- F14** Sch. 4 para. 5(1)(a)(ix) inserted (8.4.2013) by *The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591)*, art. 2(2), **Sch. para. 35(8)(b)**
- F15** Sch. 4 para. 5(1)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by *The Universal Credit and Miscellaneous Amendments (No.2) Regulations 2014 (S.I. 2014/2888)*, regs. 1(1), **3(6)(c)**
- F16** Part 12A was inserted by the *Social Security (Incapacity for Work) Act 1994 (c. 18)*, **section 5** and amended by the *Welfare Reform and Pensions Act 1999 (c. 30)*, **section 61** and by the *Social Security Act 1998 (c. 14)*, **section 86(1)** and Schedule 7, paragraphs 75 and 76.
- F17** Section 30B was inserted by the *Social Security (Incapacity for Work) Act 1994 (c. 18)*, **section 2** and amended by the *Pensions Act 1995 (c. 26)*, **section 126** and Schedule 4, paragraph 18; the *Welfare Reform and Pensions Act 1999 (c. 30)*, **section 70** and Schedule 8, paragraph 22; the *Tax Credits Act 2002 (c. 21)*, section 60, **Schedule 6**; and the *Civil Partnership Act 2004 (c. 33)* section 254 and Schedule 24, paragraph 13.
- F18** Sch. 4 para. 5(1)(d) and word 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), **7(7)(a)**
- F19** Words in Sch. 4 para. 5(1)(d)(ii) inserted (29.4.2013) by *The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630)*, regs. 1(2), **36(7)(a)**
- F20** Words in Sch. 4 para. 5(1)(d)(ii) omitted (3.4.2017) by virtue of *The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204)*, reg. 1, **Sch. 1 para. 7(5)** (with Sch. 2 paras. 1-7)
- F21** Words in Sch. 4 para. 5(2) revoked (1.4.2013) by *The Council Tax Benefit Abolition (Consequential Provision) Regulations 2013 (S.I. 2013/458)*, reg. 1, **Sch. 1**
- F22** Words in Sch. 4 para. 5(3) revoked (1.4.2013) by *The Council Tax Benefit Abolition (Consequential Provision) Regulations 2013 (S.I. 2013/458)*, reg. 1, **Sch. 1**

[<sup>F23</sup>**5A.**—(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;

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- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
  - (c) regulation 26 does not apply,
- the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 1 to 5 and 7 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 2, then paragraph 2 applies instead of this paragraph.

(3) Notwithstanding regulation 23 (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 [<sup>F24</sup>or regulation 39(1)(a), (b) or (c) of the Employment and Support Allowance Regulations 2013]; 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

- F23** Sch. 4 para. 5A 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), **3(5)**
- F24** Words in [Sch. 4 para. 5A\(6\)\(a\)](#) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **36(7)(b)**

6. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 5 had the claimant's income which does not consist of earnings been sufficient to entitle him to the full disregarded thereunder.

7. Except where the claimant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

- (a) £5 shall be disregarded if a claimant who has no partner has earnings;
- (b) £10 shall be disregarded if a claimant who has a partner has earnings.

8. Any earnings, other than earnings referred to in regulation 33(8)(b) (copyright, [<sup>F25</sup>design,] patent or trade mark), derived from employment which ended before the day in respect of which the claimant first satisfies the conditions for entitlement to housing benefit.

#### Textual Amendments

**F25** Word in Sch. 4 para. 8 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. 7\(7\)\(b\)](#)

9.—(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 this Schedule shall be increased by [<sup>F26</sup> [<sup>F27</sup>£17.10][<sup>F27</sup>£37.10]].

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

- (a) the claimant, or if he has a partner, 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 any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
  - (ii) if he is a member of a couple—
    - (aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and
    - [<sup>F28</sup>(bb) his family includes at least one child or young person;]
  - (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 has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week, and paragraph 5(1) above is satisfied in respect of that person; 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 [<sup>F29</sup> (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) any amount disregarded under this Schedule;
- (b) the amount of child care charges calculated as deductible under regulation 31(1)(c) (treatment of child care charges); and
- (c) [<sup>F30</sup> [<sup>F31</sup>£17.10][<sup>F31</sup>£37.10]].

(4) The provisions of regulation 6 (remunerative work) 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 was a reference to 30 hours.

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### Textual Amendments

- F26** Sum in Sch. 4 para. 9(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), **20(9)**
- F27** Sum in Sch. 4 para. 9(1) substituted (temp.) (with effect in accordance with [reg. 5\(3\)](#) of the amending S.I.) by virtue of [The Social Security \(Coronavirus\) \(Further Measures\) Regulations 2020 \(S.I. 2020/371\)](#), regs. 1(1), **5(2)(a)**
- F28** Sch. 4 para. 9(2)(b)(ii) (bb) substituted (1.5.2016) by [The Housing Benefit \(Abolition of the Family Premium and date of claim\) \(Amendment\) Regulations 2015 \(S.I. 2015/1857\)](#), regs. 1(b), **2(2)(c)** (with [reg. 4](#))
- F29** Amended by [S.I. 2003/3815](#).
- F30** Sch. 4 para. 9(3)(c) sum 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), **20(9)**
- F31** Sum in Sch. 4 para. 9(3)(c) substituted (temp.) (with effect in accordance with [reg. 5\(3\)](#) of the amending S.I.) by virtue of [The Social Security \(Coronavirus\) \(Further Measures\) Regulations 2020 \(S.I. 2020/371\)](#), regs. 1(1), **5(2)(a)**

### Modifications etc. (not altering text)

- C1** [Sch. 4 para. 9\(1\)](#): sum maintained (1.4.2022 for specified purposes, 4.4.2022 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2022 \(S.I. 2022/292\)](#), arts. 1(3)(j), **25(9)**
- C2** [Sch. 4 para. 9\(3\)\(c\)](#): sum maintained (1.4.2022 for specified purposes, 4.4.2022 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2022 \(S.I. 2022/292\)](#), arts. 1(3)(j), **25(9)**

**10.** 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.

**Status:**

Point in time view as at 01/04/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SCHEDULE 4.