

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);
 - [^{F1}(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 [^{F2}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Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

Textual Amendments

- F1** Sch. 1 para. 1(a)(iii) substituted (2.4.2007) by [Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **7(3)**
- 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), **6(7)**

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, [^{F3}£25.30];
- (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, [^{F3}£25.30];
 - (ii) for each member of his family under age 16, [^{F3}£12.80].

(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, [^{F3}£16.85];
- (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, [^{F3}£16.85];
 - (ii) for each member of his family under age 16, [^{F3}£8.45].

(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 [^{F3}£3.10].

(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** Sums in Sch. 1 para. 2 substituted (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), **21(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

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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) [^{F4}£25.50];
- (b) for hot water [^{F5}£2.95];
- (c) for lighting [^{F6}£2.05];
- (d) for cooking [^{F5}£2.95].

(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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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*. (See end of Document for details)

(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** Sum in Sch. 1 para. 6(2)(a) substituted (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), **21(5)(a)**
- F5** Sums in Sch. 1 para. 6(2)(b)(d) substituted (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), **21(5)(b)**
- F6** Sum in Sch. 1 para. 6(2)(c) substituted (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), **21(5)(c)**

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 61 (calculation of weekly amounts).

(2) In a case to which regulation 62 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.

SCHEDULE 2

Regulation 14

Excluded tenancies

^{F7}1. An excluded tenancy is any tenancy to which any of the following paragraphs applies.

Textual Amendments

- F7** Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

2.—(1) Subject to sub-paragraphs (2) and (3), 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;
 - (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.

[^{F8}(e) the claimant or the claimant’s partner becomes or ceases to be a person who requires overnight care where that affects the size criteria, as set out in Schedule 2 to the Rent Officers Order, applicable in the claimant’s case.]

Textual Amendments

- F7** Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**
- F8** Sch. 2 para. 2(3)(e) added (1.4.2011) by [The Housing Benefit \(Amendment\) Regulations 2010 \(S.I. 2010/2835\)](#), regs. 1, **3(10)**

3.—^{F9}(1) Subject to ^{F10}sub-paragraphs (1A) and (2)], this paragraph applies where the landlord is—

- (a) a registered housing association;

Status: Point in time view as at 08/11/2012.

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- (b) a county council, with regard to gypsies' and travellers' caravan or mobile home sites and caravans or mobile homes provided on those sites; or
- (c) a housing authority, with regard to caravan or mobile home sites or houseboat moorings, payments in respect of which are to take the form of a rent allowance in accordance with regulation 72A(3).

[^{F11}(1A) In relation to a profit-making registered provider of social housing, sub-paragraph (1) (a) only applies to its social housing (within the meaning of sections 68 to 77 of the Housing and Regeneration Act 2008).]

(2) Sub-paragraph (1) does not apply where the local authority considers that—

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

(3) Where the circumstances set out in head (a) or (b) of sub-paragraph (2) exist, the authority must state this in their application for a determination.

(4) In this Schedule “gypsies and travellers” means—

- (a) persons with a cultural tradition of nomadism or of living in a caravan; and
- (b) all other persons of a nomadic habit of life, whatever their race or origin, including—
 - (i) such persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently; and
 - (ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such).]

Textual Amendments

- F7** Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**
- F9** Sch. 2 para. 3 substituted (6.4.2009) by [The Housing Benefit and Council Tax Benefit \(Amendment\) \(No. 2\) Regulations 2008 \(S.I. 2008/2824\)](#), regs. 1(2), **3(3)(4)**
- F10** Words in Sch. 2 para. 3(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) \(No. 2\) Order 2010 \(S.I. 2010/671\)](#), art. 1(2), **Sch. 1 para. 60** (with Sch. 2); S.I. 2010/862, art. 2
- F11** Sch. 2 para. 3(1A) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) \(No. 2\) Order 2010 \(S.I. 2010/671\)](#), art. 1(2), **Sch. 1 para. 61** (with Sch. 2); S.I. 2010/862, art. 2

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.

Textual Amendments

- F7** Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

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.

Textual Amendments

F7 Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

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.

Textual Amendments

F7 Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

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

Textual Amendments

F7 Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

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.

Textual Amendments

F7 Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

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 [^{F12}section 13 of the Offender Management Act 2007].

Textual Amendments

F7 Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

F12 Words in Sch. 2 para. 9 substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **7(6)**, (8)

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

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

Textual Amendments

F7 Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

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.

Textual Amendments

F7 Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

12. This paragraph applies to a shared ownership tenancy.

Textual Amendments

- F7** Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

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.]

Textual Amendments

- F7** Sch. 2 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **18**

SCHEDULE 3

Regulation 22

Applicable amounts

PART 1

Personal allowances

Modifications etc. (not altering text)

- C1** 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), 20(6), **Sch. 8**
- C2** 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), 20(7), **Sch. 8**
- C3** 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), 20(7), **Sch. 7**

Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

C4 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), 20(6), Sch. 7

1. The amount specified in column (2) below in respect of each person or couple specified in column (1) shall be the amount specified for the purposes of regulation 22—

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single claimant or lone parent—	(1)
(a) aged under 65;	[^{F13} (a) £142.70;]
(b) aged 65 or over.	[^{F13} (b) £161.25.]
(2) Couple—	(2)
(a) both members aged under 65;	[^{F13} (a) £217.90;]
(b) one member or both members aged 65 or over.	[^{F13} (b) £241.65.]
(3) If the claimant is a member of a polygamous marriage and none of the members of the marriage have attained the age of 65—	(3)
(a) for the claimant and the other party to the marriage;	[^{F13} (a) £217.90;]
(b) for each additional spouse who is a member of the same household as the claimant.	[^{F13} (b) £75.20.]
(4) If the claimant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over—	(4)
(a) for the claimant and the other party to the marriage;	[^{F13} (a) £241.65;]
(b) for each additional spouse who is a member of the same household as the claimant.	[^{F13} (b) £80.40.]

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

Textual Amendments

F13 Sch. 3 Pt. 1 sums substituted (1.4.2012 for specified purposes, 2.4.2012) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), 21(6), **Sch. 7**

2.—(1) The amounts 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 regulation 22—

<i>Column (1)</i> <i>Child or young person</i>	<i>Column (2)</i> <i>Amount</i>
Person in respect of the period—	
(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;	[^{F13} £64.99;]
(b) beginning on the first Monday in September following that persons 16th birthday and ending on the day preceding that person's [^{F14} twentieth] birthday.	[^{F13} £64.99.]

(2) In column (1) of the Table above, “the first Monday in September” means the Monday which first occurs in the month of September in any year.

Textual Amendments

F13 Sch. 3 Pt. 1 sums substituted (1.4.2012 for specified purposes, 2.4.2012) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), 21(6), **Sch. 7**

F14 Word in Sch. 3 para. 2(1) substituted (10.4.2006) by [Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(b), **4(4)**

PART 2

Family premium

3.—(1) The amount for the purposes of regulations 22(1)(c) and (d) in respect of a family of which at least one member is a child or young person shall be [^{F15}£17.40].

^{F16}(2)

Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

Textual Amendments

- F15** Sum in Sch. 3 para. 3(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(7)(a)**
- F16** Sch. 3 para. 3(2) omitted (31.10.2011) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **20(10)(a)**

Modifications etc. (not altering text)

- C5** Sch. 3 para. 3(1) sum confirmed (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(j), **21(7)(a)**
- C6** Sch. 3 para. 3(1) sum confirmed (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), **21(7)**

PART 3

Premiums

4. The premiums specified in Part 4 shall, for the purposes of regulation 22(1)(e), be applicable to a claimant who satisfies the condition specified in this Part in respect of that premium.

5.—(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^{F17} 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^{F18}, or by [^{F19}Skills Development Scotland,] Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990^{F20} or for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 9, a person shall be treated as being in receipt of a carer's allowance under section 70 of the Act^{F21} 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

- F17** [S.I. 1979/597](#); amending instruments are [S.I. 1991/547](#), /1617, 1992/589, 1993/965, 1996/1803, 2000/799, 2003/136 and 2004/565.
- F18** [1973 c. 50](#).
- F19** Words in Sch. 3 para. 5(1)(b) inserted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **7(3)(c)**
- F20** [1990 c. 35](#).
- F21** Section 70 was amended by [S.I. 1994/2556](#) and 2000/1457.

Severe disability premium

6.—(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, 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 (6), 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 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 the claimant is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and

(iii) subject to sub-paragraph (6), 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 entitled to and in receipt of a carer's allowance in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members 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 of the members of the 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 sub-paragraph (4), 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 (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948^{F22} (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^{F23}.

(5) For the purposes of sub-paragraph (4), 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.

(6) 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 sub-paragraphs (4) and (5).

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

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- (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.
- (8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—
- (a) no account shall be taken of an award of a carer's allowance to the extent that payment of such an award is backdated for a period before [^{F24}the date on which the award is first paid]; 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 [^{F25}6B or] 7 of the Social Security Fraud Act 2001 ^{F26} (loss of benefit).

Textual Amendments

- F22** 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; 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\(7\)](#).
- F23** 1994 c. 39. Section 2 was amended by the [Environment Act 1995 \(c. 25\), Schedule 22](#), paragraph 232(1).
- F24** Words in Sch. 3 para. 6(8)(a) substituted (2.4.2007) by [Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\), regs. 1\(2\), 7\(4\)](#)
- F25** Words in Sch. 3 para. 6(8)(b) inserted (1.4.2010) by [The Social Security \(Loss of Benefit\) Amendment Regulations 2010 \(S.I. 2010/1160\), regs. 1, 5\(3\)](#)
- F26** 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

7.—^{F27}(1) [^{F28}Subject to sub-paragraph (2), the condition] is that the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations 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 a child or young person who is a member of the claimant's family.]

^{F29}(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant [^{F30}or partner] is entitled to child benefit in respect of that person under section 145A of the Act (entitlement after death of child or qualifying young person).]

Textual Amendments

- F27** Sch. 3 para. 7(1): Sch. 3 para. 7 renumbered as Sch. 3 para. 7(1) (1.4.2011 for specified purposes, 4.4.2011 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/674\)](#), regs. 1(2), **13(2)(a)**
- F28** Words in Sch. 3 para. 7(1) substituted (1.4.2011 for specified purposes, 4.4.2011 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/674\)](#), regs. 1(2), **13(2)(b)**
- F29** Sch. 3 para. 7(2) added (1.4.2011 for specified purposes, 4.4.2011 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/674\)](#), regs. 1(2), **13(2)(c)**
- F30** Words in Sch. 3 para. 7(2) inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **20(10)(b)**

Disabled child premium

8. 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 within the meaning of paragraph 6(4) or is treated as blind in accordance with paragraph 6(5);
- [^{F31}(c) is a child or young person in respect of whom section 145A of the Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.]

Textual Amendments

- F31** Sch. 3 para. 8(c) substituted (1.4.2011 for specified purposes, 4.4.2011 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/674\)](#), regs. 1(2), **13(3)**

Carer premium

9.—(1) The condition is that the claimant or his partner is, or both of them are, entitled to a carer's allowance.

(2) Where a carer premium has been awarded but—

- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
- (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,

this paragraph 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) is—

- (a) the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);

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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. (See end of Document for details)

(b) where head (a) above does not apply, the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

(4) For the purposes of this paragraph, a person shall be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

Persons in receipt of concessionary payments

10. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9, 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

11. 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)

- C7** 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), 20(8), **Sch. 9**
- C8** 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), 20(9), **Sch. 9**
- C9** Sch. 3 Pt. 4 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), 20(9), **Sch. 8**
- C10** 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), 20(8), **Sch. 8**

<i>Premium</i>	<i>Amount</i>
12.—(1) Severe Disability Premium	(1)
(a) where the claimant satisfies the condition in paragraph 6(2)(a);	[^{F32} (a) £58.20;]
(b) where the claimant satisfies the condition in paragraph 6(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance or if he or	(b)
	[^{F32} (i) £58.20;]

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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*. (See end of Document for details)

any partner satisfies that condition only
by virtue of paragraph 6(7);

- | | |
|--|--|
| (ii) in a case where there is no-one in receipt of such an allowance | (b) [F32(ii) £116.40.] |
| (2) Enhanced disability premium. | (2) [F32£22.89] in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied. |
| (3) Disabled child premium. | (3) [F32£56.63] in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied. |
| (4) Carer premium. | (4) [F32£32.60] in respect of each person who satisfies the condition specified in paragraph 9. |

Textual Amendments

F32 Sch. 3 Pt. 4 sums substituted (1.4.2012 for specified purposes, 2.4.2012) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), 21(8), **Sch. 8**

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—

- (a) as 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 ^{F33} or a scheme to which section 4 of that Act applies;
- (b) as a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005 ^{F34}) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) as an auxiliary coastguard in respect of coast rescue activities;

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- (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 ^{F35}.
- (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

F33 2004 c. 21.

F34 2005 asp 5; paragraph 3(1)(c) applies in Scotland only— see footnote (a) above.

F35 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 ^{F36};
 - (ii) severe disablement allowance under section 68 of the Act ^{F37};
 - (iii) attendance allowance;
 - (iv) disability living allowance under sections 71 to 76 of the Act ^{F38};
 - (v) any mobility supplement under [^{F39}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 ^{F40}; ^{F41} ...
 - (vi) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit Regulations ^{F42}; or
 - [^{F43}(vii) main phase employment and support allowance; or]
- (b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 ^{F44} (welfare services) or, in Scotland, has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994 ^{F45}; 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 ^{F46} (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

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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*. (See end of Document for details)

- (i) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of that Act ^{F47}, 196 days;
- (ii) in any other case, 364 days; [^{F48}or]
- [^{F48}(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 (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.]
- (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 or council tax benefit 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 or council tax benefit 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

- F36** 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.
- F37** Saved by [S.I. 2000/2958](#), [article 4](#).
- F38** Sections 71, 72 and 73 are amended by the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), [section 67](#).
- F39** 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\(8\)](#)
- F40** [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.
- F41** 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\(a\)](#)
- F42** Schedule 2 was substituted by [S.I. 2005/681](#).
- F43** 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\(b\)](#)
- F44** 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](#) and 114 and Schedule 4; the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), [section 95\(2\)](#) and Schedule 9, Part I; 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 \(c. 41\)](#)

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

section 108(5) and Schedule 13 paragraph 11(2) and the [National Health Service and Community Care Act 1990 \(c. 19\)](#), [section 44\(7\)](#).

- F45** 1994 c. 39. Section 2 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 232(1).
- F46** 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.
- F47** 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.
- F48** 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\(7\)\(a\)](#)

[^{F49}**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;
- (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](#); 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

F49 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)**

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, [^{F50}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

F50 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 [^{F51}£17.10].

(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

(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

Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

- (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 ^{F52} (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) [^{F53}£17.10].
- (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.

Textual Amendments

F51 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)**

F52 Amended by [S.I. 2003/3815](#).

F53 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)**

Modifications etc. (not altering text)

C11 Sch. 4 para. 9(1) sum confirmed (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(j), **21(9)**

C12 Sch. 4 para. 9(1) sum confirmed (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), **21(9)**

C13 Sch. 4 para. 9(3)(c) sum confirmed (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(j), **21(9)**

C14 Sch. 4 para. 9(3)(c) sum confirmed (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), arts. 1(2)(j), **21(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.

SCHEDULE 5

Regulation 33(9)

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

1. In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following, namely—

(a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);

[^{F54}(b) a war widow's pension or [^{F55}war widower's pension] ;]

(c) a pension payable to a person as a widow, widower or surviving civil partner under ^{F56}... any power of Her Majesty otherwise than under an enactment to make provision about

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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 [^{F57}and, if the amount of that payment has been abated to less than £10 by a [^{F58}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 [^{F59}that pension or payment] as would not, in aggregate with the amount of [^{F60}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) a 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

- F54** Words in Sch. 5 para. 1(b) substituted (19.5.2008) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **4(8)(a)**
- F55** Words in Sch. 5 para. 1(b) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(b), **7(5)(a)**
- F56** Words in Sch. 5 para. 1(c) omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(9)(a)(i)**
- F57** Words in Sch. 5 para. 1(d) inserted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(9)(a)(ii)**
- F58** Words in Sch. 5 para. 1(d) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(b), **7(5)(b)(i)**
- F59** Words in Sch. 5 para. 1(d) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(b), **7(5)(b)(ii)**
- F60** Word in Sch. 5 para. 1(d) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(b), **7(5)(b)(iii)**

- 2. The whole of any amount included in a pension to which paragraph 1 relates in respect of—
 - (a) the claimant's need for constant attendance;
 - (b) the claimant's exceptionally severe disablement.

3. Any mobility supplement under [^{F61}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 [^{F62}or any payment intended to compensate for the non-payment of such a supplement.

Textual Amendments

- F61** Words in Sch. 5 para. 3 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(9)(b)**
- F62** [S.I. 1983/686](#); by amended by [S.I. 1983/1164](#) and 1540 and 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420.

[^{F63}4. 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

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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

F63 Sch. 5 para. 4 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(9)(c)**

5. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 ^{F64} (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

Textual Amendments

F64 [S.I. 1983/686](#); the relevant amending Instruments are [S.I. 1994/715](#) and 1994/2021.

6.—(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

[^{F65}(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.]

(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

F65 Sch. 5 para. 6(1)(b) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(9)(d)**

7. £15 of any widowed parent's allowance to which the claimant is entitled under section 39A of the Act ^{F66}.

Textual Amendments

F66 Section 39A was inserted by section 55 of the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#) and amended by section 47 of and Schedule 3 to the [Tax Credits Act 2002 \(c. 21\)](#) and sections 254(1) and 261(4) of and Schedules 24 and 30 to the [Civil Partnership Act 2004 \(c. 33\)](#).

8. £15 of any widowed mother's allowance to which the claimant is entitled under section 37 of the Act ^{F67}.

Textual Amendments

F67 Section 37 was amended by section 47 of and Schedule 3 to the [Tax Credits Act 2002 \(c. 21\)](#), [section 254\(1\)](#) of and Schedule 24 to the [Civil Partnership Act 2004 \(c. 33\)](#) and section 1(3) of and Schedule 1 to the [Child Benefit Act 2005 \(c. 6\)](#).

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

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

10. If the claimant—

- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
 - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
 - (ii) the amount paid is £20 or more per week, £20.

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

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 ^{F68} (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

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Textual Amendments

F68 1988 c. 1; subsection (1A) was inserted by the [Finance Act 1994 \(c. 9\)](#).

12.—(1) Any payment, other than a payment to which sub-paragraph (2) applies, made to the claimant by Trustees in exercise of a discretion exercisable by them.

(2) This sub-paragraph applies to payments made to the claimant by Trustees in exercise of a discretion exercisable by them for the purpose of—

- (a) obtaining food, ordinary clothing or footwear or household fuel;
 - (b) the payment of rent, council tax or water charges for which that claimant or his partner is liable;
 - (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002 ^{F69}.
- (3) In a case to which sub-paragraph (2) applies, £20 or—
- (a) if the payment is less than £20, the whole payment;
 - (b) if, in the claimant's case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10; or
 - (c) if, in the claimant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—
 - (i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;
 - (ii) he has a disregard under paragraph 1(a) to (g), nil.
- (4) For the purposes of this paragraph—

“^{F70}ordinary clothing or footwear]” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities; and “rent” means eligible rent for the purposes of these Regulations less any deductions in respect of non-dependants which fall to be made under regulation 55 (non-dependant deductions).

Textual Amendments

F69 [S.I. 2002/1792](#); the relevant amending instruments are [S.I. 2002/3019](#), and [2002/3197](#) and [S.I. 2003/1195](#) and [2003/2274](#), [2004/2327](#) and [2000/2825](#) and [2005/522](#).

F70 Words in Sch. 5 para. 12(4) substituted (19.5.2008) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **4(8)(b)**

13. Any increase in [^{F71}pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006] paid in respect of a dependent other than the pensioner's ^{F72}... partner.

Textual Amendments

F71 Words in Sch. 5 para. 13 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(9)(e)(i)**

F72 Words in Sch. 5 para. 13 omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(9)(e)(ii)**

14. Any payment ordered by a court to be made to the claimant or the claimant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.

15. Periodic payments made to the claimant or the claimant's partner under an agreement entered into in settlement of a claim made by the claimant or, as the case may be, the claimant's partner for an injury suffered by him.

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

17. Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.

18. 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 section 1 or 2 of the Education Act 1962 ^{F73}, or section 22 of the Teaching and Higher Education Act 1998 ^{F74}, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980 ^{F75}, 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.

Textual Amendments

F73 1962 c. 12, **section 1** was amended by the [Education Act 1996 \(c. 56\)](#), **Schedule 37**, paragraph 4.

F74 1998 c. 30.

F75 1980 c. 44.

19.—(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 (discretionary awards) 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 ^{F76}, 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 18, 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),

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whichever is less.

Textual Amendments

F76 1980 c. 44.

20.—(1) Where a claimant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the claimant's spouse, civil partner, former spouse or former civil partner or the claimant's partner's spouse, civil partner, former spouse, or former civil partner.

(2) For the purposes 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.

21. Except in a case which falls under paragraph 9 of Schedule 4, where the claimant is a person who satisfies [^{F77}any of] the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to [^{F78}£17.10].

Textual Amendments

F77 Words in Sch. 5 para. 21 inserted (5.1.2009) by *The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008* (S.I. 2008/3157), regs. 1(1), **6(9)(f)**

F78 Sum in Sch. 5 para. 21 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(10)**

Modifications etc. (not altering text)

C15 Sch. 5 para. 21 sum confirmed (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by *The Social Security Benefits Up-rating Order 2011* (S.I. 2011/821), arts. 1(2)(j), **21(10)**

C16 Sch. 5 para. 21 sum confirmed (1.4.2012 for specified purposes, 2.4.2012 in so far as not already in force) by *The Social Security Benefits Up-rating Order 2012* (S.I. 2012/780), arts. 1(2)(j), **21(10)**

22. Except in the case of income from capital specified in Part 2 of Schedule 6, any actual income from capital.

^{F79}**23.**

Textual Amendments

F79 Sch. 5 para. 23 omitted (5.1.2009) by virtue of *The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008* (S.I. 2008/3157), regs. 1(1), **6(9)(g)**

[^{F80}**24.** Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 6 does not exceed £10,000, any income actually derived from such capital.]

Textual Amendments

F80 Sch. 5 para. 24 substituted (2.11.2009) by *The Social Security (Deemed Income from Capital) Regulations 2009* (S.I. 2009/1676), regs. 1, **6(2)**

SCHEDULE 6

Regulation 44(2)

Capital to be disregarded

PART 1

Capital to be disregarded generally

1. 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.

2. 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.

3. 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.

4. Any premises occupied in whole or in part—

- (a) by a person who is a relative of the claimant or of his partner as his home [^{F81}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

F81 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, **31(2)**

5. 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.

6. Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a 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.

7. Any premises where the claimant is taking reasonable steps to dispose of the whole of his interest in 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.

8. All personal possessions.

9. 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 engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.

Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

- 10.** The assets of any business owned in whole or in part by the claimant if—
- (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, 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.

- 11.** The surrender value of any policy of life insurance.

12. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—

- (a) the claimant makes one or more payments to another person (“the provider”);
- (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the claimant on his death; and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the claimant on his death.

13. Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment 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, an amount equal to that payment.

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

- (a) a diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the time 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.

(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.

(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 claimant's partner who is—

- (a) the diagnosed person;

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- (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
 - (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.
- (4) Where a payment such as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which the payment is made and ending two years after that date.
- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
 - (b) 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 or an independent hospital.

- (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 Creutzfeldt-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 Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

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

15. The amount of any payment, other than a [^{F82}war pension], to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or civil partner or the claimant's partner's deceased spouse or 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.

Textual Amendments

F82 Words in Sch. 6 para. 15 substituted (5.1.2009) by *The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008* (S.I. 2008/3157), regs. 1(1), **6(10)(a)**

16.—(1) Any payment made under [^{F83}or by] —

- (a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust [^{F84}, MFET Limited], the Skipton Fund [^{F85}, the Caxton Foundation] or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or
- (b) the Independent Living [^{F86}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 [^{F83}or by] any of

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

the Trusts 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.

(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 [F83 or by] any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under [F83 or by] any of the Trusts, 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 who is or had been a member of that person's household; 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 or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,

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 [F83 or by] any of the Trusts, 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 who was or had been a member of his household; 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 or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,

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.

Textual Amendments

F83 Words in Sch. 6 para. 16(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)(b), **9(5)(c)**

F84 Words in Sch. 6 para. 16(1)(a) 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)(b), **9(3)(d)**

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

F85 Words in Sch. 6 para. 16(1)(a) inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **20(8)**

F86 Words in Sch. 6 para. 16(1)(b) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **7(5)(b)**

17.—(1) An amount equal to the amount of any payment made in consequence of any personal injury to the claimant or, if the claimant has a partner, to the partner.

(2) Where the whole or part of the payment is administered—

[^{F87}(a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;]

(b) in accordance with an order under Rule 36.14 of the Ordinary Cause Rules 1993 ^{F88} or under Rule 128 of those Rules; or

(c) in accordance with the terms of a trust established for the benefit of the claimant or his partner,

the whole of the amount so administered.

Textual Amendments

F87 Sch. 6 para. 17(2)(a) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), **reg. 16(4)**

F88 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](#); the relevant amending Instrument is [S.I. 1996/2167](#).

18. Any amount specified in paragraphs 19, 20^[F89], 21 or 26B] for a period of one year beginning with the date of receipt.

Textual Amendments

F89 Words in Sch. 6 para. 18 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(10)(b)**

19. Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the claimant as his home and to his personal possessions.

20. So much of any amounts paid to the claimant or deposited in the claimant's name for the sole purpose of—

(a) purchasing premises which the claimant intends to occupy as his home; or

(b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the claimant as his home.

21.—(1) Subject to paragraph 22 any amount paid—

(a) by way of arrears of benefit;

(b) by way of compensation for the late payment of benefit;

(c) in lieu of the payment of benefit;

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

- (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
 - (e) by a local authority (including, in relation to England, a county council), or by the ^[F90]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) In sub-paragraph (1), “benefit” means—
- (a) attendance allowance under section 64 of the Act;
 - (b) disability living allowance;
 - (c) income support;
 - (d) income-based jobseeker's allowance;
 - (e) state pension credit;
 - (f) housing benefit;
 - (g) council tax benefit;
 - (h) child tax credit;
 - (i) an increase of a disablement pension under section 104 of the Act (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
 - (j) any amount included on account of the claimant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension.
 - ^[F91](k) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001; ^{F92} ...
 - (l) working tax credit.]^{F93} or
 - (m) income-related employment and support allowance.]

Textual Amendments

- F90** Words in Sch. 6 para. 21(1)(e) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(10)(c)**
- F91** Sch. 6 para. 21(2)(k)(l) inserted by [SI 2005/2502 reg. 2\(17\) \(as amended\) \(3.4.2006\)](#) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 27(17)** (with [regs. 2, 3, Sch. 3, Sch. 4](#))
- F92** Word in Sch. 6 para. 21(2)(k) omitted (27.10.2008) by virtue of [Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **41(a)(i)**
- F93** Sch. 6 para. 21(2)(m) and word added (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **41(a)(ii)**

22.—(1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and has been received by the claimant in full on or after the day on which he became entitled to benefit under these Regulations or the Housing Benefit Regulations 2006.

- (2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—
- (a) paragraph 7(2) of Schedule 10 to the Income Support Regulations ^{F94};
 - (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations ^{F95};

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

(c) paragraph 9(2) of [^{F96}Schedule 6] to the Housing Benefit Regulations 2006;
(d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002 ^{F97},
[^{F98}(e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations,]
where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) shall have effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of benefit under these Regulations during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the claimant—
 - (i) is the person who received the relevant sum;
 - (ii) is the partner of that person; or
 - (iii) was the partner of that person at the date of his death;

“official error”—

- (a) where the error relates to housing benefit or council tax benefit, has the meaning given by regulation 1(2) of the Decisions and Appeals Regulations ^{F99};
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 ^{F100};

“the relevant date” means—

- (a) in the case of an existing award of benefit under these Regulations or the Housing Benefit Regulations 2006, 6th October 2003; and
- (b) in any other case, the date on which the claim for benefit under these Regulations or the Housing Benefit Regulations 2006 was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the payment referred to in sub-paragraph (1) or the total amount referred to in sub-paragraph (2).

Textual Amendments

- F94** Paragraph 7(2) was inserted by [S.I. 2002/2380](#).
- F95** Paragraph 12(2) was inserted by [S.I. 2002/2380](#).
- F96** Words in Sch. 6 para. 22(2)(c) substituted (19.5.2008) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **4(9)**
- F97** [S.I. 2002/1792](#). Paragraph 20A was inserted by [S.I. 2002/3197](#), and substituted by [S.I. 2003/2274](#).
- F98** Sch. 6 para. 22(2)(e) added (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **41(b)**
- F99** [S.I. 2001/1002](#). Regulation 1(2) was amended by [S.I. 2002/1379](#) and 2002/1703.
- F100** [S.I. 1999/991](#). Regulation 1(3) was amended by [S.I. 2002/1379](#).

Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

23. Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.

24. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

^{F101}25.

Textual Amendments
F101 Sch. 6 para. 25 omitted (16.7.2007) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **5(6)**

26. The dwelling occupied as the home; but only one dwelling shall be disregarded under this paragraph.

[^{F102}26A. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to the Contributions and Benefits Act or under Schedule 1 to the Graduated Retirement Benefit Regulations, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—

- (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
- (b) the amount of that lump sum,

but only for so long as that person does not change that election in favour of an increase of pension or benefit.]

Textual Amendments
F102 Sch. 6 para 26A inserted by SI 2005/2677 reg. 11(4) (as amended) (6.4.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), **reg. 1(1)**, 2 (with Sch. 3, Sch. 4)

[^{F103}26B. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.]

Textual Amendments
F103 Sch. 6 para. 26B added (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(10)(d)**

[^{F104}26C. Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).]

Textual Amendments
F104 Sch. 6 para. 26C 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(8)**

[^{F105}26D. Any payments made by virtue of regulations made under—

- (a) section 57 of the Health and Social Care Act 2001 (direct payments);

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

- (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services); or
- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care).]

Textual Amendments

F105 Sch. 6 para. 26D inserted (31.10.2011) by *The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011* (S.I. 2011/2425), regs. 1(2), **20(11)**

PART 2

Capital disregarded only for the purposes of determining deemed income

- 27. The value of the right to receive any income under a life interest or from a life rent.
- 28. 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.
- 29. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 30. Where property is held under a trust, other than—
 - (a) a charitable trust within the meaning of the Charities Act 1993 ^{F106}; or
 - (b) a trust set up with any payment to which paragraph 16 of this Schedule applies,and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the claimant or the claimant's partner, or both, that property.

Textual Amendments

F106 1993 c. 10.

^{F107}SCHEDULE 7

Regulation 53

Textual Amendments

F107 Sch. 7 omitted (6.10.2008) by virtue of *Housing Benefit and Council Tax Benefit (Extended Payments) Amendment Regulations 2008* (S.I. 2008/959), regs. 1(1), **6(4)(d)**

Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

SCHEDULE 8

Regulation 71

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 71 (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 71(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^{F108} and, where appropriate, to appeal against that decision and the manner and time in which to do so.

Textual Amendments

F108 Regulation 4(1)(a) was amended by [S.I. 2002/1379](#).

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 state pension credit [^{F109}or an extended payment (qualifying contributory benefits)] is payable

Textual Amendments

F109 Words in Sch. 8 para. 9 heading added (6.10.2008) by virtue of [Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), regs. 1(1), **6(5)(a)**

9.—(1) Where a person on state pension credit is awarded housing benefit, 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 55 (non-dependant deductions), 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 and a [^{F110}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 69 (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.

(2) In a case where a person on state pension credit has entitlement only to the savings credit, the following additional matters shall also be set out—

- (a) the applicable amount and the basis of calculation;
- (b) the amount of the savings credit ^{F111}... taken into account;
- (c) the amount of the person's income and capital as notified to the local authority by the Secretary of State and taken into account for the purposes of the housing benefit assessment;
- (d) any modification of the claimant's income or capital made in accordance with regulation 27 (calculation of claimant's income in savings credit only cases); and
- (e) the amount of the claimant's capital if paragraph (7) of regulation 27 applies in his case.

[^{F112}(3) Where a claimant is entitled to an extended payment (qualifying contributory benefits) in accordance with regulation 53, the decision notice shall include a statement as to the matters set out in paragraph 9(1).]

Status: Point in time view as at 08/11/2012.

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. (See end of Document for details)

Textual Amendments

- F110** Words in Sch. 8 para. 9(1)(e) substituted (19.5.2008) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **4(10)**
- F111** Words in Sch. 8 para. 9(2)(b) omitted by SI 2005/2502 reg. 2(18) (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(18)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F112** Sch. 8 para. 9(3) added (6.10.2008) by [Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 \(S.I. 2008/959\)](#), reg. 1(1), **6(5)(b)**

PART 3

Awards where no state pension credit is payable

10. Where a person is not on state pension credit 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.

PART 4

Awards where direct payments made to landlords

11. Where a decision has been made under regulation 76 or 77 (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,and the notice shall be sent both to the claimant and to the landlord; and
- (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.

12. In this Schedule, “landlord” has the same meaning as in regulation 76.

PART 5

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

13. Where an authority makes a decision under regulation 24 (circumstances in which income of 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 56, the decision notice shall include a statement as to—
 - (i) the matters set out in paragraphs 9(1)(a) to (c), and in a case where the amount of entitlement is less than the minimum amount of housing benefit prescribed, paragraph 9(1)(d) also; and
 - (ii) the matters set out in paragraphs 10(b) to (d) where the person is not on [^{F113}state pension credit]; 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

F113 Words in Sch. 8 para. 14(a)(ii) substituted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(3), 7(7)

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 81 (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 08/11/2012.

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*. (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.

SCHEDULE 9

Regulation 103

[^{F114}Former pathfinder authorities

Textual Amendments

F114 Sch. 9 substituted (with application in accordance with reg. 1(3)(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(4), **20(1)** (with reg. 1(4))

PART 1

Former pathfinder authorities

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

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 08/11/2012.

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. (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

- (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 08/11/2012.

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*. (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^{F115}
- (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

Status: Point in time view as at 08/11/2012.

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*. (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; and
 - (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;

Status: Point in time view as at 08/11/2012.

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*. (See end of Document for details)

- (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.”.

Textual Amendments

F115 Words in [Sch. 9 para. 6](#) omitted (1.4.2011) by virtue of [The Housing Benefit \(Amendment\) Regulations 2010 \(S.I. 2010/2835\)](#), regs. 1, **3(11)**

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 08/11/2012.

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. (See end of Document for details)

[^{F116}SCHEDULE 10

Electronic Communication

Textual Amendments

F116 Sch. 10 inserted (20.12.2006) by [Housing Benefit and Council Tax Benefit \(Electronic Communications\) Order 2006 \(S.I. 2006/2968\)](#), art. 1, art. 3(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

Status: Point in time view as at 08/11/2012.

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. (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 08/11/2012.

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.