

## SCHEDULE 3

Regulation 26(2) and 28(2)

### Sums to be disregarded in the calculation of earnings

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

(a) where—

(i) the employment has been terminated because of retirement; and

(ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the date of claim the employment has been terminated otherwise than because of retirement, any earnings in respect of that employment except earnings to which regulation 25(1)(b) to (e), (g) and (h) (earnings of employed earners) applies;

(c) where at the date of claim—

(i) the employment has not been terminated; but

(ii) the claimant is not engaged in remunerative work,

any earnings in respect of that employment except earnings to which regulation 25(1)(d), (e), (i) and (j) applies.

2. In the case of a claimant who, before the date of claim—

(a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and

(b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings in respect of that employment except—

(i) where that employment has been terminated, earnings to which regulation 25(1) (e) applies;

(ii) where that employment has not been terminated, earnings to which regulation 25(1) (e), (i) and (j) applies.

3.—(1) In a case to which this paragraph applies and paragraph 4 does not apply, £20; but notwithstanding regulation 15 (calculation of income and capital of members of a claimant's family and of a polygamous marriage) if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the claimant's applicable amount includes an amount by way of the disability premium or severe disability premium under Schedule 1 (applicable amounts).

(3) This paragraph applies where—

(a) the claimant is a member of a couple and his applicable amount would, but for the higher pensioner premium under Schedule 1 being applicable include an amount by way of the disability premium under that Schedule; and

(b) he or his partner is under the age of 60 and at least one is engaged in employment.

(4) This paragraph applies where—

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- (a) the claimant's applicable amount includes an amount by way of the higher pensioner premium under Schedule 1; and
- (b) the claimant or, if he is a member of a couple, either he or his partner has attained the age of 60; and
- (c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in employment and the claimant was entitled by virtue of sub-paragraph (2) or (3) to a disregard of £20; and
- (d) he or, if he is a member of couple, he or his partner has continued in employment.

(5) For the purposes of this paragraph, no account shall be taken of any period not exceeding eight consecutive weeks occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in employment or the claimant ceased to be entitled to any or all of the following benefits namely community charge benefit, council tax benefit or housing benefit.

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

**5.—(1)** In a case to which neither paragraph 3 nor paragraph 4 applies to the claimant and, subject to sub-paragraph (2), where the claimant's applicable amount includes an amount by way of the carer premium under Schedule 1 (applicable amounts), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 17(2) of that Schedule as being in receipt of carer's allowance.

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

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

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

**7.** In a case where paragraphs 3, 5, 6 and 8 do not apply to the claimant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 15 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £10.

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

- (a) 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 <sup>M1</sup> or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005 <sup>M2</sup>) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a life boat;

- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001<sup>M3</sup>;

but, notwithstanding regulation 15 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

- (2) If the claimant's partner is engaged in employment—
- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the claimant's earnings disregarded under this paragraph exceed £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the claimant's earnings disregarded under this paragraph exceed £20.

#### Marginal Citations

**M1** 2004 c. 21.

**M2** 2005 asp 5. paragraph 8(1)(c) applies in Scotland only— see footnote (a) above.

**M3** S.I. 2001/1004.

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

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

11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 4 had the claimant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

12. Where a claimant is on income support or an income-based jobseeker's allowance, his earnings.

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

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

15. Any earnings of a child or young person.

16.—(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 paragraphs 3 to 10 of this Schedule shall be increased by [<sup>F1</sup>£15.45] .

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

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

(b) the claimant—

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

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- (ii) is a member of a couple and—
    - (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
    - (bb) his applicable amount includes a family premium under paragraph 3 of Schedule 1; or
  - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
  - (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—
    - (aa) the claimant's applicable amount includes a higher pensioner premium or a disability premium under paragraph 11 or 12 of Schedule 1 respectively; and
    - (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the higher pensioner premium or disability premium referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
  - (c) the claimant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.
- (3) The following are the amounts referred to in sub-paragraph (1)—
- (a) the amount calculated as disregardable from the claimant's earnings under paragraphs 3 to 10 of this Schedule;
  - (b) the amount of child care charges calculated as deductible under regulation 17(1)(c); and
  - (c) [<sup>F2</sup>£15.45] .
- (4) The provisions of regulation 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation were a reference to 30 hours.

#### Textual Amendments

- F1** Word in Sch. 3 para. 16(1) substituted (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(8)**
- F2** Word in Sch. 3 para. 16(3)(c) substituted (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(8)**

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

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