

### 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 [<sup>F1</sup>paid or due to be paid] in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

[<sup>F2</sup>(b) where before the first day of entitlement to council tax benefit the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) [<sup>F3</sup>any payment of the nature described in—

(aa) regulation 25(1)(e), or

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

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

(aa) regulation 25(1)(g) or (h), or

(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

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

[<sup>F2</sup>(c) where before the first day of entitlement to council tax benefit—

(i) the employment has not been terminated, but

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

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in [<sup>F4</sup>paragraph 1(b)(i) or (ii)(bb) or regulation 25(1)(i)] or (j).]

#### Textual Amendments

**F1** Words in Sch. 3 para. 1(a) inserted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **13(9)(a)(i)**

**F2** Sch. 3 para. 1(b)(c) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **13(9)(a)(ii)**

**F3** Sch. 3 para. 1(b)(i) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(c), **8(5)(a)**

**F4** Words in Sch. 3 para. 1(c) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(c), **8(5)(b)**

2. In the case of a claimant who, before the [<sup>F5</sup>first day of entitlement to council tax benefit]—

**Status:** Point in time view as at 01/04/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Council Tax Benefit Regulations 2006, SCHEDULE 3. (See end of Document for details)

- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
- (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings [<sup>F6</sup>paid or due to be paid] in respect of that employment except—

- (i) where that employment has been terminated, [<sup>F7</sup>any payment of the nature described in [<sup>F8</sup>paragraph 1(b)(i) or (ii)(bb) ]] applies;
- (ii) where that employment has not been terminated, [<sup>F9</sup>any payment or remuneration of the nature described in [<sup>F10</sup>paragraph 1(b)(i) or (ii)(bb) or regulation 25(1)(i) or (j)].

#### Textual Amendments

- F5** Words in Sch. 3 para. 2 substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **13(9)(b)(i)**
- F6** Words in Sch. 3 para. 2 inserted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **13(9)(b)(ii)**
- F7** Words in Sch. 3 para. 2 substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **13(9)(b)(iii)**
- F8** Words in Sch. 3 para. 2(b)(i) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(c), **8(5)(c)**
- F9** Words in Sch. 3 para. 2 substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), **reg. 13(9)(b)(iv)**
- F10** Words in Sch. 3 para. 2(b)(ii) substituted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(c), **8(5)(b)**

[<sup>F11</sup>**2A.** In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 27(3) and (4) (earnings of self-employed earners) apply.]

#### Textual Amendments

- F11** Sch. 3 para. 2A inserted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **8(11)**

**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 [<sup>F12</sup>severe disability premium, work-related activity component or support component] under Schedule 1 (applicable amounts).

(3) This paragraph applies where—

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- (a) [<sup>F13</sup>the claimant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 1;] and
- (b) he or his partner [<sup>F14</sup>has not attained the qualifying age for state pension credit] and at least one is engaged in employment.

<sup>F15</sup>(4) .....

<sup>F16</sup>(5) .....

#### Textual Amendments

- F12** Words in Sch. 3 para. 3(2) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **61(a)**
- F13** Words in Sch. 3 para. 3(3)(a) substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **5(11)(a)**
- F14** Words in Sch. 3 para. 3(3)(b) substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **35(2)**
- F15** Sch. 3 para. 3(4) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **5(11)(b)**
- F16** Sch. 3 para. 3(5) omitted (19.5.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **5(11)(b)**

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

5.—(1) In a case to which neither paragraph 3 nor paragraph 4 applies to the claimant and, subject to sub-paragraph (2), where the claimant's applicable amount includes an amount by way of the carer premium under Schedule 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—

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- (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 [<sup>F17</sup>one or more employments] specified in paragraph 8(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single claimant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 8 exceed £20.

#### Textual Amendments

**F17** Words in Sch. 3 para. 9 substituted (19.5.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **5(11)(c)**

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

[<sup>F18</sup>**10A.**—(1) Where—

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

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

**Status:** Point in time view as at 01/04/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Council Tax Benefit Regulations 2006, SCHEDULE 3. (See end of Document for details)

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

(3) Notwithstanding regulation 15 (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

**F18** Sch. 3 para. 10A inserted (1.4.2010) by [The Housing Benefit and Council Tax Benefit \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/2608\)](#), regs. 1(2), **4(2)(a)**

**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<sup>F19</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance], his earnings.

#### Textual Amendments

**F19** Words in Sch. 3 para. 12 substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **61(b)**

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**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 [<sup>F20</sup>paragraphs 3 to 10A] of this Schedule shall be increased by [<sup>F21</sup>£17.10.]

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

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

(b) the claimant—

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

(ii) is a member of a couple and—

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

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

[<sup>F22</sup>(aa) the claimant's applicable amount includes a disability premium under paragraph 12, the work-related activity component under paragraph 23 or the support component under paragraph 24 of Schedule 1 respectively;]

(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 [<sup>F23</sup>or either of the components] 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 [<sup>F24</sup>paragraphs 3 to 10A] of this Schedule;

(b) the amount of child care charges calculated as deductible under regulation 17(1)(c); and

[<sup>F25</sup>(c) £17.10.]

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(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

- F20** Words in Sch. 3 para. 16(1) substituted (1.4.2010) by [The Housing Benefit and Council Tax Benefit \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/2608\)](#), regs. 1(2), **4(2)(b)**
- F21** Word in Sch. 3 para. 16(1) substituted (1.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(a), **21(9)**
- F22** Sch. 3 para. 16(2)(b)(iv)(aa) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **61(c)(i)**
- F23** Words in Sch. 3 para. 16(2)(b)(iv)(bb) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **61(c)(ii)**
- F24** Words in Sch. 3 para. 16(3) substituted (1.11.2010) by [The Housing Benefit and Council Tax Benefit \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/2449\)](#), regs. 1(2), **4(6)**
- F25** Word in Sch. 3 para. 16(3)(c) substituted (1.4.2010) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(a), **21(9)**

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

- C1** Sch. 3 para. 16(1) sum confirmed (1.4.2011 coming into force in accordance with art. 1(2)(k)) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(k), **22(9)**
- C2** Sch. 3 para. 16(1) sum confirmed (1.4.2012) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), art. 1(2)(k)**reg. 22(9)**
- C3** Sch. 3 para. 16(3)(c) sum confirmed (1.4.2011 coming into force in accordance with art. 1(2)(k)) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(k), **22(9)**
- C4** Sch. 3 para. 16(3)(c) sum confirmed (1.4.2012) by [The Social Security Benefits Up-rating Order 2012 \(S.I. 2012/780\)](#), art. 1(2)(k)**reg. 22(9)**

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

**Status:**

Point in time view as at 01/04/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the The Council Tax Benefit Regulations 2006, SCHEDULE 3.