

## SCHEDULE 1

Regulation 12

## Applicable amounts

**PART 1**

## Personal Allowances

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

- C1** Sch. 1 Pt. 1 modified (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), 21(4), **Sch. 10**
- C2** Sch. 1 Pt. 1 modified (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), 21(4), **Sch. 10**

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of regulations 12(a) and 13(a) and (b)—

<i>Column (1)</i> <i>Person or couple</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single claimant aged—	(1)
(a) (a) Not less than 18 but less than 25;	(a) (a) £44.50;
(b) (b) Not less than 25.	(b) (b) £56.29.
(2) Lone parent.	(2) £56.20.
(3) Couple.	(3) £88.15.

2.—(1) The amount specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of regulations 12(b) and 13(c)—

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

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sixteenth birthday and ending on the day preceding that person's [<sup>F1</sup>twentieth] birthday.

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

#### Textual Amendments

**F1** Word in Sch. 1 para. 2(1) substituted (10.4.2006) by [Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(b), **5(4)**

## PART 2

### Family Premium

**3.—**(1) Subject to sub-paragraph (2), the amount for the purposes of regulations 12(c) and 13(d) in respect of a family of which at least one member is a child or young person shall be—

- (a) where the claimant is a lone parent to whom sub-paragraph (3) applies, £22.20;
- (b) in any other case, [<sup>F2</sup>£16.75].

(2) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.50 where at least one child is under the age of one year and for the purposes of this paragraph where the child's first birthday does not fall on a Monday he shall be treated as under the age of one year until the first Monday after his first birthday.

(3) The amount in sub-paragraph (1)(a) shall be applicable to a lone parent—

- (a) who was entitled to council tax benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under sub-paragraph (a) of this paragraph as in force on that date; or
- (b) on becoming entitled to council tax benefit where that lone parent—
  - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (4) as at the day before the date of claim for that benefit; and
  - (ii) was entitled to housing benefit as at the date of claim for council tax benefit or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit Regulations,

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

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

- (a) the claimant has not ceased to be entitled, or has not ceased to be treated as entitled, to council tax benefit;
- (b) the claimant has not ceased to be a lone parent;
- (c) where the claimant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continued to be entitled to one or other of those benefits;
- (d) where the claimant was not entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has not become entitled to either of those benefits; and

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- (e) a premium under paragraph 9, 10, 11 or 12 has not become applicable to the claimant.
- (5) For the purposes of sub-paragraphs (3)(b)(i) and (4)(a), a claimant shall be treated as entitled to council tax benefit during any period where he was not, or had ceased to be, so entitled and—
- (a) throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations (lone parent rate of family premium); or
- (b) he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations and his applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

#### Textual Amendments

- F2** Word in Sch. 1 para. 3(1)(b) substituted (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **21(5)(b)**

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

- C3** Sch. 1 para. 3(1)(a) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(5)(a)**
- C4** Sch. 1 para. 3(1)(a) sum confirmed (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **21(5)(a)**
- C5** Sch. 1 para. 3(2) sum confirmed (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), **21(5)(c)**
- C6** Sch. 1 para. 3(2) sum confirmed (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **21(5)(c)**

## PART 3

### Premiums

4. Except as provided in paragraph 5, the premiums specified in Part 4 of this Schedule shall, for the purposes of regulations 12(d) and 13(e), be applicable to a claimant who satisfies the condition specified in paragraphs 8 to 17 in respect of that premium.

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

6.—(1) Subject to sub-paragraph (2), the following premiums, namely—

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

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

(2) An enhanced disability premium in respect of a person shall not be applicable in addition to—

- (a) a pensioner premium under paragraph 9 or 10; or
- (b) a higher pensioner premium under paragraph 11.

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7.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to a claimant under this Part, a person shall be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979<sup>M1</sup> applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved under section 2 of the 1973 Act or section 2 of the Enterprise and New Town (Scotland) Act 1990<sup>M2</sup> for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 17, a person shall be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act.

**Marginal Citations**

**M1** [S.I. 1979/597](#); amending instruments are [S.I. 1991/547](#), [1991/1617](#), [1992/589](#), [1993/965](#), [1996/1803](#), [2000/799](#), [2003/136](#) and [2004/565](#).

**M2** [1990 c. 35](#).

**Bereavement premium**

**F3** 8. ....

**Textual Amendments**

**F3** [Sch. 1 para. 8](#) revoked (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), [reg. 1\(1\)](#), [Sch.](#)

**Pensioner Premium for persons under 75**

9. The condition is that the claimant—
- (a) is a single claimant or lone parent aged not less than 60 but less than 75; or
  - (b) has a partner and is, or his partner is, aged not less than 60 but less than 75.

**Pensioner Premium for persons 75 and over**

10. The condition is that the claimant—
- (a) is a single claimant or lone parent aged not less than 75 but less than 80; or
  - (b) has a partner and is, or his partner is, aged not less than 75 but less than 80.

**Higher Pensioner Premium**

- 11.—(1) Where the claimant is a single claimant or a lone parent, the condition is that—
- (a) he is aged not less than 80; or
  - (b) he is aged less than 80 but not less than 60, and—
    - (i) the additional condition specified in paragraph 13(1)(a) is satisfied; or

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- (ii) the claimant was in receipt of, or was treated as being in receipt of, council tax benefit and the disability premium was or, as the case may be, would have been, applicable to him in respect of a benefit week within 8 weeks of his 60th birthday and he has, subject to sub-paragraph (3), remained continuously in receipt of council tax benefit since attaining that age.
- (2) Where the claimant has a partner, the condition is that—
- (a) he or his partner is aged not less than 80; or
  - (b) he or his partner is aged less than 80 but not less than 60 and either—
    - (i) the additional condition specified in paragraph 13(1)(a) is satisfied, or
    - (ii) the claimant was in receipt of, or was treated as being in receipt of, council tax benefit and the disability premium was or, as the case may be, would have been, applicable to him in respect of a benefit week within 8 weeks of his 60th birthday and he has, subject to sub-paragraph (3), remained continuously in receipt of council tax benefit since attaining that age.
- (3) For the purposes of this paragraph and paragraph 13—
- (a) once the higher pensioner premium is applicable to a claimant, if he then ceases, for a period of 8 weeks or less, to be entitled to or treated as entitled to council tax benefit, he shall, on becoming re-entitled to council tax benefit, thereafter be treated as having been continuously entitled to that benefit;
  - (b) where sub-paragraphs (1)(b)(ii) and (2)(b)(ii) apply, if a claimant ceases to be entitled to or treated as entitled to council tax benefit for a period not exceeding 8 weeks which includes his 60th birthday, he shall, on becoming re-entitled to council tax benefit, thereafter be treated as having been continuously entitled to that benefit; or
  - (c) where the claimant or his partner—
    - (i) was entitled to housing benefit or, as the case may be, community charge benefit at any time in the period of 8 weeks before becoming entitled or re-entitled to council tax benefit; and
    - (ii) satisfied the conditions in respect of the higher pensioner premium under paragraphs 11 and 13 of Schedule 3 to the Housing Benefit Regulations <sup>M3</sup> or, as the case may be, paragraphs 11 and 13 of Schedule 1 to the Community Charge Benefits (General) Regulations 1989 <sup>M4</sup>,for the purpose of establishing entitlement or re-entitlement to council tax benefit, he or his partner shall be treated as satisfying the equivalent conditions for higher pensioner premium under this paragraph and paragraph 13.
- (4) In the case of a claimant who is a welfare to work beneficiary, references in sub-paragraphs (1)(b)(ii), (2)(b)(ii), (3)(b) and (3)(c)(i) to a period of 8 weeks shall be treated as references to a period of [<sup>F4</sup>104 weeks].
- (5) A person is a welfare to work beneficiary if he is a person—
- (a) to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 <sup>M5</sup> applies; and
  - (b) who again becomes incapable of work for the purposes of Part 12A of the Act.
- (6) For the purposes of this paragraph, a claimant shall be treated as having been entitled to and in receipt of council tax benefit throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to that benefit because, as a consequence of his participation in that programme, he failed to satisfy the condition in section 130(1)(c) of the Act.

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#### Textual Amendments

- F4** Words in Sch. 1 para. 11(4) substituted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **17(4)**

#### Marginal Citations

- M3** S.I 2006/213.  
**M4** S.I 1989/1321.  
**M5** S.I 1995/311; relevant amending Instruments are [S.I. 1998/2231](#) and 1999/3109.

### Disability Premium

**12.** The condition is that—

- (a) where the claimant is a single claimant or a lone parent, he is aged less than 60 and the additional condition specified in paragraph 13 is satisfied; or
- (b) where the claimant has a partner, either—
  - (i) the claimant is aged less than 60 and the additional condition specified in paragraph 13 (1)(a) or (b) is satisfied by him; or
  - (ii) his partner is aged less than 60 and the additional condition specified in paragraph 13(1)(a) is satisfied by his partner.

### Additional Condition for the Higher Pensioner and Disability Premiums

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

- (a) the claimant or, as the case may be, his partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit Regulations, mobility supplement, long-term incapacity benefit under Part 2 of the Act or severe disablement allowance under Part 3 of the Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or
  - (ii) was in receipt of long-term incapacity benefit under Part 2 of the Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the claimant has since remained continuously entitled to community charge benefit or, as the case may be, council tax benefit and, if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
  - (iii) <sup>F5</sup>..., was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the Act or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of [<sup>F6</sup>regulation 18(11)(e) (treatment of child care charges)]; or
  - (iv) is provided by the Secretary of State with an invalid carriage or other vehicle under section 5(2) of the National Health Service Act 1977 <sup>M6</sup> (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 <sup>M7</sup> (provision of services by Scottish Ministers) or receives payments by way of grant

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from the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or

(v) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 <sup>M8</sup> (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994 <sup>M9</sup>; or

(b) the claimant—

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work); and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of the Act <sup>M10</sup>, 196 days;

(bb) in any other case, 364 days.

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

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

(4) For the purpose of sub-paragraph (1)(a)(ii) and (iii), once the higher pensioner premium is applicable to the claimant by virtue of his satisfying the condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be entitled to council tax benefit, he shall on again becoming so entitled to council tax benefit, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(a)(ii) and (iii).

(5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act <sup>M11</sup> or section 2 of the Enterprise and New Towns (Scotland) Act 1990 <sup>M12</sup> or for any period during which he is in receipt of a training allowance.

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

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

(8) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990.

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(9) In the case of a claimant who is a welfare to work beneficiary within the meaning of paragraph 11(5)—

- (a) the reference to a period of 8 weeks in sub-paragraph (3); and
- (b) the reference to a period of 56 days in sub-paragraph (6),

shall in each case be treated as a reference to a period of [<sup>F7</sup>104 weeks].

#### Textual Amendments

- F5** Words in Sch. 1 para. 13(1)(a)(iii) omitted by SI 2005/2502 reg. 3(11)(a)(i) (as substituted) (6.3.2006) 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\(27\)](#) (with regs. 2, 3, Sch. 3, Sch. 4)
- F6** Words in Sch. 1 para. 13(1)(a)(iii) substituted by SI 2005/2502 reg. 3(11)(a)(ii) (as substituted) (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), [Sch. 2 para. 27\(27\)](#) (with regs. 2, 3, Sch. 3, Sch. 4)
- F7** Words in Sch. 1 para. 13(9) substituted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), [17\(4\)](#)

#### Marginal Citations

- M6** 1977 c. 49; section 5(2) was amended subsection (2A) added by the [Public Health Laboratory Services Act 1979 \(c. 23\)](#), [section 1](#), and subsection (2B) added by section 9 of the [Health and Social Security Act 1984 \(c. 48\)](#).
- M7** 1948 c. 29; section 29 was amended by the [National Assistance \(Amendment\) Act 1959 \(c. 30\)](#), [section 1\(2\)](#); the [Mental Health \(Scotland\) Act 1960 \(c. 61\)](#), [sections 113\(1\)](#) and 114 of and Schedule 4 to the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), [section 95\(2\)](#) and Schedule 9 Part 1; the [Local Government Act 1972 \(c. 70\)](#), sections 195(6), 272(1), [Schedule 23 paragraph 2](#) and Schedule 30; the [Employment and Training Act 1973 \(c. 50\)](#), [section 14\(1\)](#) and Schedule 3 paragraph 3; the [National Health Service Act 1977 \(c. 49\)](#), [section 129](#) and Schedule 15 paragraph 6; the [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), [section 30](#) and Schedule 10 Part I; the [Children Act 1989 \(c. 41\)](#) section 108(5) and Schedule 13 paragraph 11(2); and the [National Health Service and Community Care Act 1990 \(c. 19\)](#), [section 44\(7\)](#).
- M8** 1948 c. 29;
- M9** 1994 c. 39. Section 2 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 232(1).
- M10** Section 30B was inserted by the [Social Security \(Incapacity for Work\) Act 1994\(c. 18\)](#), section 2.
- M11** 1973 c. 50; section 2 was amended by the [Employment Act 1988 \(c. 19\)](#), [section 25\(1\)](#); the [Employment Act 1989 \(c. 38\)](#), Part I, [Schedule 7](#); and the [Trade Union Reform and Employment Rights Act 1993 \(c. 19\)](#), section 47(1).
- M12** 1990 c. 35.

#### Severe Disability Premium

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

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

- (a) in the case of a single claimant, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and
  - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and



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

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

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

- (4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of—
  - (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the Act; or
  - (b) a person who is blind or is treated as blind within the meaning of paragraph 13(1)(a)(v) and (2).
- (5) For the purposes of sub-paragraph (2)(b) a person shall be treated—
  - (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
  - (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before [<sup>F8</sup>the date on which the award is first paid].

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 7 of the Social Security Fraud Act 2001 <sup>M13</sup> (loss of benefit provisions).

#### Textual Amendments

- F8** Words in Sch. 1 para. 14(6) substituted (2.4.2007) by [Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **8(5)**

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### Marginal Citations

**M13** 2001 c. 11; section 7 was amended by the State Pension Credit Act 2002, section 14 and Schedule 2 and by the Tax Credits Act 2002, section 60 and Schedule 6.

### Enhanced disability premium

**15.**—(1) 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) the claimant; or
- (b) a member of the claimant's family,

who is aged less than 60.

(2) An enhanced disability premium shall not be applicable in respect of—

- (a) a claimant who—
  - (i) is not a member of a couple or a polygamous marriage; and
  - (ii) is a patient within the meaning of [F<sup>9</sup> regulation 18(11)(e)] (patients) and has been for a period of more than 52 weeks; or
- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of [F<sup>10</sup> regulation 18(11)(e)] and has been for a period of more than 52 weeks.

### Textual Amendments

**F9** Words in Sch. 1 para. 15(2)(a)(ii) substituted by SI 2005/2502 reg. 3(11)(b)(i) (as substituted) (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), [Sch. 2 para. 27\(27\)](#) (with regs. 2, 3, Sch. 3, Sch. 4)

**F10** Words in Sch. 1 para. 15(2)(b) substituted by SI 2005/2502 reg. 3(11)(b)(ii) (as substituted) (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), [Sch. 2 para. 27\(27\)](#) (with regs. 2, 3, Sch. 3, Sch. 4)

### Disabled Child Premium

**16.** The condition is that a child or young person for whom the claimant or a partner of his is responsible and who is a member of the claimant's household—

- (a) is in receipt of disability living allowance or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 13; or
- (c) is a child or young person in respect of whom section 145A of the Act <sup>M14</sup> applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of the Act and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child.

### Marginal Citations

**M14** Section 145A was inserted by section 55 of the [Tax Credits Act 2002 \(c. 21\)](#); and amended by the [Civil Partnership Act 2004 \(c. 33\)](#), [section 254](#) and Schedule 24, paragraph 48.

### Carer Premium

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

(2) Where a carer premium is awarded but—

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

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

(3) The relevant date for the purposes of sub-paragraph (2) shall be—

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

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes a claim for council tax benefit, the condition for the award of the carer premium shall be treated as satisfied for a period of eight weeks from the date on which—

- (a) the person in respect of whose care the carer's allowance has been awarded dies;
- (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

### Persons in receipt of concessionary payments

**18.** For the purpose of determining whether a premium is applicable to a person under paragraphs 13 to 17, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

### Persons in receipt of benefit for another

**19.** For the purposes of this Part of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

**Status:** Point in time view as at 01/04/2008.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Council Tax Benefit Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

## PART 4

### Amounts of premiums specified in Part 3

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

**C7** Sch. 1 Pt. 4 modified (1.4.2007) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(a), 21(6), **Sch. 11**

**C8** Sch. 1 Pt. 4 modified (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), 21(6), **Sch. 11**

<i>Premium</i>	<i>Amount</i>
<b>20.</b> —	
(1) <sup>F11</sup> ...	(1) <sup>F11</sup> ...
(2) Pensioner Premium for Persons aged under 75—	(2)
(a) where the claimant satisfies the condition in paragraph 9(a);	(a) £53.25;
(b) where the claimant satisfies the condition in paragraph 9(b).	(b) £78.90.
(3) Pensioner premium for persons aged 75 and over—	(3)
(a) where the claimant satisfies the condition in paragraph 10(a);	(a) £53.25;
(b) where the claimant satisfies the condition in paragraph 10(b).	(b) £78.90.
(4) Higher Pensioner Premium—	(4)
(a) where the claimant satisfies the condition in paragraph 11(1)(a) or (b);	(a) £53.25;
(b) where the claimant satisfies the condition in paragraph 11(2)(a) or (b).	(b) £78.90.
(5) Disability Premium—	(5)
(a) where the claimant satisfies the condition in paragraph 12(a) or (b);	(a) £23.95;

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- |  |  |
|--|--|
| (b) where the claimant satisfies the condition in paragraph 12(b).   | (b) £34.20.  |
| <br>   |  |
| (6) Severe Disability Premium—   | (6)  |
| (a) where the claimant satisfies the condition in paragraph 14(2)(a);  | (a) £45.50;  |
| (b) where the claimant satisfies the condition in paragraph 14(2)(b)—  | (b)<br>(i) £45.50;   |
| (i) in a case where there is someone in receipt of carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 14(5); | (b)<br>(ii) £91.00.  |
| (ii) in a case where there is no one in receipt of such an allowance.  |  |
| <br>   |  |
| (7) Disabled Child Premium.  | (7) £43.89 in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of this Schedule is satisfied.  |
| <br>   |  |
| (8) Carer Premium.   | (8) £25.80 in respect of each person who satisfies the condition specified in paragraph 17.  |
| <br>   |  |
| (9) Enhanced Disability Premium where the conditions in paragraph 15 are satisfied.  | (9)<br>(a) £17.71 in respect of each child or young person in respect of whom the conditions specified in paragraph 15 are satisfied;<br>(b) £11.70 in respect of each person who is neither—<br>(i) a child or young person; nor<br>(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 15 are satisfied;<br>(c) £16.90 where the claimant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 are satisfied in respect of a member of that couple or polygamous marriage. |

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**Textual Amendments**

**F11** Sch. 1 para. 20(1) revoked (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), reg. 1(1), **Sch.**

SCHEDULE 2

Regulation 62

Amount of alternative maximum council tax benefit

1.—(1) Subject to paragraphs 2 and 3, the alternative maximum council tax benefit in respect of a day for the purpose of regulation 62 shall be determined in accordance with the following Table and in this Table:

- [<sup>F12</sup>(a) “second adult” means any person or persons residing with the claimant to whom section 131(6) of the Act applies; and
- (b) “persons to whom regulation 45(2) applies” includes any person to whom that regulation would apply were they, and their partner if they had one, below the qualifying age for state pension credit.]

(2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 or 78 of the 1992 Act less;

- [<sup>F13</sup>(a) any reductions made in consequence of any enactment in, or under, the 1992 Act; and
- (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.]

<i>(1)</i> <i>Second adult</i>	<i>(2)</i> <i>Alternative maximum council tax benefit</i>
<ul style="list-style-type: none"> <li>(a) (a) Where the second adult or all second adults are in receipt of income support or state pension credit or are persons on an income-based jobseeker's allowance;</li> <li>(b) (b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, state pension credit or an income-based jobseeker's allowance—                             <ul style="list-style-type: none"> <li>(i) is less than [<sup>F14</sup>£169.00] per week;</li> <li>(ii) is not less than [<sup>F15</sup>£169.00] per week but less than [<sup>F15</sup>£220.00] per week.</li> </ul> </li> <li>(c) (c) [<sup>F16</sup>Where the dwelling would be wholly occupied by one or more persons to whom regulation 45(2)</li> </ul>	<ul style="list-style-type: none"> <li>(a) (a) 25 per cent. of the council tax due in respect of that day;</li> <li>(b) (b)                             <ul style="list-style-type: none"> <li>(i) 15 per cent. of the council tax due in respect of that day;</li> <li>(ii) 7.5 per cent. of the council tax due in respect of that day.</li> </ul> </li> <li>(c) (c) 100 per cent. of the council tax due in respect of that day]</li> </ul>

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applies but for the presence of one or more second adults who are in receipt of income support, state pension credit or are persons on an income-based jobseeker's allowance.

#### Textual Amendments

- F12** Words in Sch. 2 para. 1(1) substituted (1.4.2006) by [Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(4), **9(4)(a)**
- F13** Words in Sch. 2 para. 1(2) substituted (1.4.2006) by [Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(4), **9(4)(b)**
- F14** Word in Sch. 2 para. 1 substituted (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **21(7)(a)**
- F15** Words in Sch. 2 para. 1 substituted (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **21(7)(b)**
- F16** Words in Sch. 2 para. 1 inserted (1.4.2006) by [Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(4), **9(4)(c)**

2. In determining a second adult's gross income for the purposes of this Schedule, there shall be disregarded from that income—

- (a) any attendance allowance, or any disability living allowance under section 71 of the Act;
- (b) any payment made under the Trusts, the Fund, the Eileen Trust or the Independent Living Funds which had his income fallen to be calculated under regulation 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
- (c) any payment which had his income fallen to be calculated under regulation 30 would have been disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).

3. Where there are two or more second adults residing with the claimant for benefit and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 of the 1992 Act, his income shall be disregarded in determining the amount of any alternative maximum council tax benefit, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

### 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,

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any earnings [<sup>F17</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>F18</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) any payment of the nature described in regulation 25(1)(e), or
- (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>F18</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 regulation 25(1)(e), (i) or (j).]

#### Textual Amendments

- F17** 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)**
- F18** 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)**

2. In the case of a claimant who, before the [<sup>F19</sup>first day of entitlement to council tax benefit]—
- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
  - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings [<sup>F20</sup>paid or due to be paid] in respect of that employment except—

- (i) where that employment has been terminated, [<sup>F21</sup>any payment of the nature described in regulation 25(1)(e)] applies;
- (ii) where that employment has not been terminated, [<sup>F22</sup>any payment or remuneration of the nature described in regulation 25(1)(e), (i) or (j)].

#### Textual Amendments

- F19** 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)**
- F20** 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)**
- F21** 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)**



**F22** 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\(9\)\(b\)\(iv\)](#)

**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—

- (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.

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**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>M15</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>M16</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>M17</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

**M15** 2004 c. 21.

**M16** 2005 asp 5. paragraph 8(1)(c) applies in Scotland only— see footnote (a) above.

**M17** 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.

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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 paragraphs 3 to 10 of this Schedule shall be increased by [<sup>F23</sup>£16.05].

(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—

(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>F24</sup>£16.05].

(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.

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### Textual Amendments

- F23** Word in Sch. 3 para. 16(1) substituted (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **21(8)**
- F24** Word in Sch. 3 para. 16(3)(c) substituted (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), 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.

## SCHEDULE 4

Regulation 30(2)

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

**1.** Any amount paid by way of tax on income which is to be taken into account under regulation 30 (calculation of income other than earnings).

- 2.** Any payment in respect of any expenses incurred or to be incurred by a claimant who is—
- engaged by a charitable or voluntary organisation, or
  - volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 32(8) (notional income).

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

**4.** Where a claimant is on income support or an income-based jobseeker's allowance the whole of his income.

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

**6.** Where the claimant, or the person who was the partner of the claimant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999<sup>M18</sup> as in force at that date, the whole of his income.

### Marginal Citations

**M18** [S.I. 1999/2734](#).

- 7.** Any disability living allowance.
- 8.** Any concessionary payment made to compensate for the non-payment of—
- any payment specified in paragraph 7 or 10;
  - income support;
  - an income-based jobseeker's allowance.
- 9.** Any mobility supplement under article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983<sup>M19</sup> (including such a supplement by virtue

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of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983<sup>M20</sup> or any payment intended to compensate for the non-payment of such a supplement.

#### Marginal Citations

**M19** S.I. 1983/883; article 26A was inserted by S.I.1983/1116 and amended by S.I. 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286 and 2001/409.

**M20** S.I. 1983/686; article 25A was inserted by S.I. 1983/1164 and amended by S.I. 1983/1164 and 1983/1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420.

10. Any attendance allowance.

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

12.—(1) Any payment—

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

(i) regulations made under section 518 of the Education Act 1996<sup>M21</sup> (payment of school expenses; grant of scholarships etc);

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980<sup>M22</sup> (power to assist persons to take advantage of educational facilities);

(iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992<sup>M23</sup> (provision of financial assistance to students); or

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

(i) section 14 or section 181 of the Education Act 2002<sup>M24</sup> (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

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

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

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

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

(c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

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

#### Marginal Citations

**M21** 1996 c. 56; section 518 was substituted by the School Standards and Framework Act 1998 (c. 31), section 129.

**M22** 1980 c. 44.

**M23** 1992 c. 37.

**M24** 2002 c. 32; section 14 was amended by the Education Act 2005 (c. 18), section 98 and Schedule 14, paragraph 23.

13. Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002<sup>M25</sup>.

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**Marginal Citations**

**M25** S.I. 2002/2086.

**14.—**(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 <sup>M26</sup> except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit or severe disablement allowance;
- (b) of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

**Marginal Citations**

**M26** 1990 c. 35.

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

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

(2) Sub-paragraph (1) shall not apply to a payment which is made or due to be made by—

- (a) a former partner of the claimant, or a former partner of any member of the claimant's family; or
- (b) the parent of a child or young person where that child or young person is a member of the claimant's family.

**16.** Subject to paragraph 35, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);

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- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983<sup>M27</sup> insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865<sup>M28</sup> or the Pensions and Yeomanry Pay Act 1884<sup>M29</sup>, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977<sup>M30</sup> and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

**Marginal Citations**

- M27** [S.I. 1983/883](#).
- M28** [1865 c. 73](#).
- M29** [47 & 48 Vict c. 55](#).
- M30** [1977 c. 5](#).

17. Subject to paragraph 35, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the Act;
- (b) widowed parent's allowance paid pursuant to section 39A of the Act<sup>M31</sup>.

**Marginal Citations**

- M31** Section 39A was inserted by section 55(2) of the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#).

18.—(1) Any income derived from capital to which the claimant is or is treated under regulation 41 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 5.

(2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 5 but only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the claimant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of “water charges” in regulation 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as his home”.

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

- (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 <sup>M32</sup> or section 22 of the Teaching and Higher Education Act 1998 <sup>M33</sup>, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980 <sup>M34</sup>, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student's student loan,

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

#### Marginal Citations

**M32** 1962 c. 12.

**M33** 1998 c. 30.

**M34** 1980 c. 44.

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

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 (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, or a payment under section 73 of that Act of 1980,

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

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

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

whichever is less.

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

**22.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 23 refers and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

[<sup>F25</sup>(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or]

[<sup>F25</sup>(b) where the aggregate of any such payments is £20 or more per week, £20.]



### Textual Amendments

**F25** Sch. 4 para. 22(a)(b) substituted (1.4.2008) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(4), **13(10)**

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

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent. of such payments;
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.

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

**24.—**(1) Any income in kind, except where regulation 30(11)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.

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

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

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

- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 <sup>M35</sup> or in accordance or with a scheme approved by the Scottish Ministers under section 51 of the Adoption (Scotland) Act 1978 <sup>M36</sup> (schemes for payments of allowances to adopters);
- (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 <sup>M37</sup> (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or, as the case may be, section 50 of the Children Act 1975 <sup>M38</sup> (payment towards maintenance of children);
- (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
- (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 <sup>M39</sup> (special guardianship support services);

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

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

(3) In the case of a child or young person, so much of the weekly amount of the payment as exceeds the amount included under Schedule 1 in the calculation of the claimant's applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any.

#### Marginal Citations

**M35** 2002 c. 38.

**M36** 1978 c. 28.

**M37** 1989 c. 41.

**M38** 1975 c. 72.

**M39** Section 14F was inserted by the Adoption and Children Act 2002.

**27.** Any payment made by a local authority to the claimant with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989<sup>M40</sup> or, as the case may be, section 26 of the Children (Scotland) Act 1995<sup>M41</sup> or by a voluntary organisation under section 59(1)(a) of the Children Act 1989 or by a [F26]local authority under regulation 9 of the Fostering of Children (Scotland) Regulations 1996 (payment of allowances)].

#### Textual Amendments

**F26** Words in Sch. 4 para. 27 substituted (2.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **17(5)**

#### Marginal Citations

**M40** 1989 c. 41.

**M41** 1995 c. 36.

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

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948<sup>M42</sup>; or
- (e) a primary care trust established under section 16A of the National Health Service Act 1977<sup>M43</sup>.

#### Marginal Citations

**M42** 1948 c. 29; subsection (3A) was inserted by the [National Health Service and Community Care Act 1990 \(c. 19\)](#).

**M43** 1977 c. 49; section 16A was inserted by section 2 of the Health Act 1999(c. 8).

**29.** Any payment made by a local authority in accordance with section 17, 23C or 24A of the Children Act 1989<sup>M44</sup> or, as the case may be, section 12 of the Social Work (Scotland) Act 1968<sup>M45</sup>

or section 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

#### Marginal Citations

**M44** 1989 c. 41; section 23C was inserted by the [Children \(Leaving Care\) Act 2000 \(c. 35\)](#), [section 2\(4\)](#).

**M45** 1968 c. 49.

[<sup>F27</sup>**29A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.

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

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

#### Textual Amendments

**F27** Sch. 4 para. 29A inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), [reg. 7\(5\)\(a\)](#)

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

- (a) on a loan which is secured on the dwelling which the claimant occupies as his home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 <sup>M46</sup> or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964 <sup>M47</sup>.

(2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
- (b) meet any amount due by way of premiums on—
  - (i) that policy; or
  - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

#### Marginal Citations

**M46** 1974 c. 39.

**M47** 1964 c. 53; Part 3 was substituted by the Consumer Credit Act 1974, Schedule 4, paragraph 22.

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**31.** Any payment of income which by virtue of regulation 36 (income treated as capital) is to be treated as capital.

**32.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).

**33.** Any payment under section 148 of the Act (Christmas bonus for pensioners).

**34.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

**35.** The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 15(2) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 47(2)(b) and regulation 48(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), regulation 51(2) (treatment of student loans), regulation 52(3) (treatment of payments from access funds) and paragraphs 16 and 17 shall in no case exceed £20 per week.

**36.—(1)** Any payment made under any of the Trusts, the Fund, the Eileen Trust or the Independent Living Funds.

(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 any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

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

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

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

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

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

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

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

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

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

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, the Skipton Fund and the London Bombings Relief Charitable Fund.

**37.** Any housing benefit.

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

**39.** Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983 <sup>M48</sup>.

**Marginal Citations**

**M48** [S.I. 1983/1399](#).

**40.** Any resettlement benefit which is paid to the claimant by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987 <sup>M49</sup>.

**Marginal Citations**

**M49** [S.I. 1987/1683](#).

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

**42.** Any community charge benefit.

**43.** Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the 1992 Act (reduction of liability for council tax).

**44.** Any special war widows payment made under—

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- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865 <sup>M50</sup>;
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977;
- (c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917 <sup>M51</sup>;
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980 <sup>M52</sup>;
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980;

and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.

#### Marginal Citations

**M50** 1865c. 73.

**M51** 1917 c. 51, Queen's Regulations for the Royal Air Force are available from HMSO.

**M52** 1980 c. 9.

**45.**—(1) Any payment or repayment made—

- (a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 <sup>M53</sup> (travelling expenses and health service supplies);
- (b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988 <sup>M54</sup> (travelling expenses and health service supplies).

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

#### Marginal Citations

**M53** S.I. 1988/551; the relevant amending Instruments are S.I. 1989/394, 1990/918, 1991/557 and 1992/1104.

**M54** S.I. 1998/546.

**46.** Any payment made under regulation 6, 8, 12 or 14(2) of the Welfare Food Regulations 1988 <sup>M55</sup> (payments made in place of milk tokens or the supply of vitamins).

#### Marginal Citations

**M55** S.I. 1988/536; the relevant amending Instruments are S.I. 1990/3 and 1991/585.

**47.** Any payment made by either the Secretary of State for [<sup>F28</sup>Justice] or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody.

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### Textual Amendments

**F28** Word in Sch. 4 para. 47 substituted (22.8.2007) by [Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), art. 1(2), [Sch. para. 24\(2\)](#)

**48.**—(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—

- (a) the claimant's former partner, or the claimant's partner's former partner; or
- (b) the parent of a child or young person where that child or young person is a member of the claimant's family except where that parent is the claimant or the claimant's 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.

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

**49.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

**50.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944<sup>M56</sup> to assist disabled persons to obtain or retain employment despite their disability.

### Marginal Citations

**M56** 1944 c. 10.

**51.** Any guardian's allowance.

**52.**—(1) Where the claimant is in receipt of any benefit under Parts 2, 3 or 5 of the Act or pension under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983<sup>M57</sup>, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act or the rate of that pension under that Order where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(2) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker's allowance under regulation 10(4) of the Jobseeker's Allowance (Transitional Provisions) Regulations 1996<sup>M58</sup> shall be treated as an increase of a benefit under the Act arising under Part 4 of the Act.

### Marginal Citations

**M57** [S.I. 1983/883](#); the relevant amending Instruments are [S.I. 1993/598](#) and 1994/1906.

**M58** [S.I. 1996/2567](#).

**53.** Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983<sup>M59</sup> (pensions to widows, widowers or surviving civil partners).

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#### Marginal Citations

**M59** [S.I.1983/883](#); the relevant amending Instruments are [S.I. 1994/1906](#) and 2005/1471.

**54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 <sup>M60</sup> (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

#### Marginal Citations

**M60** [S.I.1983/686](#); the relevant amending Instruments are [S.I.1994/715](#) and 2021.

**55.—**(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
  - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
  - (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows, widowers or surviving civil partners).

(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).

**56.** Except in a case which falls under sub-paragraph (1) of paragraph 16 of Schedule 3, where the claimant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to [<sup>F29</sup>£16.05].

#### Textual Amendments

**F29** Word in [Sch. 4 para. 56](#) substituted (1.4.2008) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(a), **21(9)**

**57.** Any payment made under the Community Care (Direct Payments) Act 1996 <sup>M61</sup> or under section 12B of the Social Work (Scotland) Act 1968 <sup>M62</sup> or under regulations made under section 57 of the Health and Social Care Act 2001 <sup>M63</sup> (direct payments).

#### Marginal Citations

**M61** [1996 c. 30](#).

**M62** [1968 c. 48](#); section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

**M63** [2001 c. 15](#).

**58.—**(1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—

- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;



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(b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity, in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker's Allowance Regulations <sup>M64</sup>.

**Marginal Citations**

**M64** Chapter 4A was inserted by [S.I.1998/1174](#).

**59.**—(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the claimant or where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**60.** Where the amount of subsistence allowance paid to a person in a benefit week exceeds the amount of income-based jobseeker's allowance that person would have received in that benefit week had it been payable to him, less 50p, that excess amount.

**61.** In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise.

**62.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 <sup>M65</sup>.

**Marginal Citations**

**M65** [S.I.2001/1167](#).

**63.**—(1) Any payment made by a local authority or by the National Assembly for Wales, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.

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

**64.** 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 the interest on the loan is payable by the person to whom it was made or by one of the annuitants;

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- (c) 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;
- (d) 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; and
- (e) 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,

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

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 <sup>M66</sup> (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.

#### Marginal Citations

**M66** 1988 c. 1; subsection (1A) was inserted by the Finance Act 1994(c. 9), section 81(3).

## SCHEDULE 5

Regulation 34(2)

### Capital to be disregarded

**1.** The dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular any croft land on which the dwelling is situated; but, notwithstanding regulation 15 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

**2.** Any premises acquired for occupation by the claimant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.

**3.** Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

**4.** Any premises occupied in whole or in part—

- (a) by a partner or relative of a single claimant or any member of the family as his home where that person is either aged 60 or over or 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.

**5.** Where a claimant is on income support or an income-based jobseeker's allowance, the whole of his capital.

**6.** Where the claimant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the claimant's capital.

7. Any future interest in property of any kind, other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

8.—(1) The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the claimant where—

- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
- (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

for a period of 26 weeks from the date on which the claim for council tax benefit is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

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

- (a) any payment specified in paragraphs 7, 9 or 10 of Schedule 4;
- (b) an income-related benefit or supplementary benefit, family income supplement under the Family Income Supplement Act 1970<sup>M67</sup>, working families' tax credit under section 128 of the Act, disabled person's tax credit under section 129 of the Act, or housing benefit under Part 2 of the Social Security and Housing Benefits Act 1982<sup>M68</sup>;
- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001<sup>M69</sup>;
- (e) working tax credit and child tax credit<sup>F30</sup> ...;

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

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

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

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

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

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

#### Textual Amendments

**F30** Words in Sch. 5 para. 9(1)(e) omitted by SI 2005/2502 reg. 3(13) (as amended) (6.3.2006) 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\(29\)](#) (with regs. 2, 3, Sch. 3, Sch. 4)

#### Marginal Citations

**M67** 1970 c. 55.  
**M68** 1982 c. 24.  
**M69** S.I. 2001/1167.

#### 10. Any sum—

- (a) paid to the claimant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

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

#### 11. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985<sup>M70</sup> or section 338(1) of the Housing (Scotland) Act 1987<sup>M71</sup> as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the claimant to complete the purchase.

#### Marginal Citations

**M70** 1985 c. 69.  
**M71** 1987 c. 26.

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

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

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**14.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant [<sup>F31</sup>or claimant's partner], the value of the trust fund and the value of the right to receive any payment under that trust.

**Textual Amendments**

**F31** Words in Sch. 5 para. 14 inserted (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. 17(6)(a)**

[<sup>F32</sup>**14A.**—(1) Any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

(2) But sub-paragraph (1)—

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

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

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

**Textual Amendments**

**F32** Sch. 5 para. 14A inserted (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. 17(6)(b)**

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

**16.** The value of the right to receive any income which is disregarded under paragraph 13 of Schedule 3 or paragraph 25 of Schedule 4.

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

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

**19.** Any payment made by a local authority in accordance with section 17, 23C or 24A of the Children Act 1989 <sup>M72</sup> or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 <sup>M73</sup> or sections 28 or 30 of the Children (Scotland) Act 1995 <sup>M74</sup> (provision of services for children and their families and advice and assistance to certain children).

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#### Marginal Citations

- M72** 1989 c. 41.  
**M73** 1968 c. 49.  
**M74** 1995 c. 36.

[<sup>F33</sup>**19A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the claimant.

- (2) Sub-paragraph (1) applies only where A—
- (a) was formerly in the claimant's care, and
  - (b) is aged 18 or over, and
  - (c) continues to live with the claimant.]

#### Textual Amendments

- F33** Sch. 5 para. 19A inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), [reg. 7\(6\)\(b\)](#)

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

**21.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 <sup>M75</sup> (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

#### Marginal Citations

- M75** 1988 c. 1; section 369 was amended by the [Finance Act 1993 \(c. 34\)](#), [section 58](#), and the [Finance Act 1994 \(c. 9\)](#), [section 81](#).

**22.** Any capital which by virtue of regulation 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.

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

**24.**—(1) Any payment made under the Trusts, the Fund, the Eileen Trust, the Independent Living Funds, the Skipton Funds or the London Bombings Relief Fund.

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

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;

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- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

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

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

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

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

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

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

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

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, the Skipton Fund, and the London Bombings Relief Charitable Fund.

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

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

**26.** Any premises where the claimant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

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

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

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

**30.** Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983.

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

**32.** The value of any funds held under a personal pension scheme <sup>F34</sup>....

#### Textual Amendments

**F34** Words in Sch. 5 para. 32 omitted (16.7.2007) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **6(7)**

**33.** The value of the right to receive any rent except where the claimant has a reversionary interest in the property in respect of which rent is due.

**34.** Any payment in kind made by a charity or under the Trusts, [<sup>F35</sup>the Fund, the Independent Living (1993) Fund or the Independent Living Fund (2006)].

#### Textual Amendments

**F35** Words in Sch. 5 para. 34 substituted (1.10.2007) by [Independent Living Fund \(2006\) Order 2007 \(S.I. 2007/2538\)](#), arts. 1, **10(3)**

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



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**36.** Any community charge benefit.

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

**38.** Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988<sup>M76</sup> or section 66 of the Housing (Scotland) Act 1988<sup>M77</sup> (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as his home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the claimant to commence occupation of those premises as his home.

**Marginal Citations**

**M76** 1988 c. 50.

**M77** 1988 c. 43.

**39.** Any arrears of special war widows payment which is disregarded under paragraph 44 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 53, 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of the receipt of the arrears.

**40.—(1)** Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations<sup>M78</sup> (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988<sup>M79</sup> (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003<sup>M80</sup> (travelling expenses and health service supplies),

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

(2) Any payment or repayment by the Secretary of State for Health, Scottish Ministers or the National Assembly for Wales which is analogous to a payment or repayment mentioned in subparagraph (1); but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

**Marginal Citations**

**M78** S.I. 2003/2382, as amended by S.I. 2004/663, S.I. 2004/936 and S.I. 2005/26 and 2005/578.

**M79** S.I. 1988/551; the relevant amending Instruments are S.I. 1989/394, 1990/918, 1991/557, 1992/1104.

**M80** S.I. 2003/376.

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**41.** Any payment made under regulation 6, 8, 12 or 14(2) of the Welfare Food Regulations 1996<sup>M81</sup> (payments made in place of milk tokens or the supply of vitamins) but only for a period of 52 weeks from the date of the receipt of the payment.

#### Marginal Citations

**M81** [S.I. 1996/1434](#).

**42.** Any payment made either by the Secretary of State for [<sup>F36</sup>Justice] or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

#### Textual Amendments

**F36** Word in Sch. 5 para. 42 substituted (22.8.2007) by [Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), art. 1(2), [Sch. para. 24\(3\)](#)

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

**44.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

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

**46.—**(1) Subject to sub-paragraph (2), where a claimant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax benefit), the whole of his capital.

(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Act the claimant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum council tax benefit), sub-paragraph (1) shall not have effect.

[<sup>F37</sup>**47.—**(1) Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
- (b) which can only be disposed of by order or direction of any such court; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

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

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### Textual Amendments

**F37** Sch. 5 para. 47 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. 17\(6\)\(c\)](#)

**48.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995<sup>M82</sup>, or under Rule 36.14 of the Ordinary Cause Rules 1993<sup>M83</sup> or under Rule 128 of those Rules, where such sum derives from—

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

### Marginal Citations

**M82** [1995 c. 36](#).

**M83** 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](#).

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

**50.** The amount of any child maintenance bonus payable by way of jobseeker's allowance or income support in accordance with section 10 of the Child Support Act 1995<sup>M84</sup>, or a corresponding payment under Article 4 of the Child Support (Northern Ireland) Order 1995<sup>M85</sup>, but only for a period of 52 weeks from the date of receipt.

### Marginal Citations

**M84** [1995 c. 34](#).

**M85** [S.I. 1995/2702](#).

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

**52.—(1)** Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**53.—(1)** Any payment—

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

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- (i) regulations made under section 518 of the Education Act 1996 <sup>M86</sup>;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 <sup>M87</sup>;
  - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992 <sup>M88</sup>; or
- (b) corresponding to such an education maintenance allowance, made pursuant to—
- (i) section 14 or section 181 of the Education Act 2002 <sup>M89</sup> (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

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

#### Marginal Citations

- M86** 1996 c. 56.  
**M87** 1980 c. 44.  
**M88** 1992 c. 37.  
**M89** 2002 c. 32.

**54.** In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

**55.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

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

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

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

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

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

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(d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

(a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;

(c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—

(i) two years after that date; or

(ii) on the day before the day on which that person—

(aa) ceases receiving full-time education; or

(bb) attains the age of [<sup>F38</sup>20],

whichever is the latest.

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

(a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

(b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or

(c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

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

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

(a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or

(c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—

(i) two years after that date; or

(ii) on the day before the day on which that person—

(aa) ceases receiving full-time education; or

(bb) attains the age of [<sup>F39</sup>20],

whichever is the latest.

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

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

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

(6) In this paragraph—

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

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

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

#### Textual Amendments

**F38** Word in Sch. 5 para. 57(2)(bb) (c)(ii) substituted (10.4.2006) by [Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **5(5)**

**F39** Word in Sch. 5 para. 57(4)(bb) (c)(ii) substituted (10.4.2006) by [Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **5(5)**

**58.** The amount of any payment, other than a war pension within the meaning of section 25 of the Social Security Act 1989<sup>M90</sup>, to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or deceased civil partner or the claimant's partner's deceased spouse or deceased civil partner—

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

during the Second World War.

#### Marginal Citations

**M90** 1989 c. 24.

**59.**—(1) Any payment made by a local authority, or by the National Assembly for Wales, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.

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

**60.** Any payment made under the Community Care (Direct Payments) Act 1996<sup>M91</sup>, or regulations made under section 57 of the Health and Social Care Act 2001<sup>M92</sup> or under section 12B of the Social Work (Scotland) Act 1968<sup>M93</sup>.

#### Marginal Citations

**M91** 1996 c. 30.

**M92** 2001 c. 15.

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**M93** 1968 c. 48; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

**61.** Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 <sup>M94</sup>.

**Marginal Citations**

**M94** 2002 c. 38.

**62.** Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 <sup>M95</sup> (special guardianship support services).

**Marginal Citations**

**M95** 1989 c. 41; section 14F was inserted by section 115 of the Adoption and Children Act 2002.

SCHEDULE 6

Regulation 60

Extended payments of council tax benefit

**PART 1**

Conditions for an extended payment

**1.** The conditions prescribed in this paragraph are that the Secretary of State has certified to the relevant authority—

- (a) that the claimant or his partner was entitled to and in receipt of income support or an income-based jobseeker's allowance or that the claimant and his partner were entitled to and in receipt of a joint-claim jobseeker's allowance and that entitlement has ceased;
- (b) the relevant day in his case;
- (c) that entitlement to income support or an income-based jobseeker's allowance had ceased by reason of the claimant or his partner—
  - (i) commencing employment as an employed or self-employed earner; or
  - (ii) increasing their earnings from such employment; or
  - (iii) increasing the number of hours worked in such employment; and
- (d) that the claimant had been entitled to and in receipt of income support or a jobseeker's allowance for a continuous period of at least 26 weeks until the relevant day, and for the purpose of this sub-paragraph—
  - (i) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of income support and a jobseeker's allowance for at least 26 weeks and for the purposes of this sub-paragraph, a reference to the claimant being entitled to and in receipt of a jobseeker's allowance shall include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker's allowance;
  - (ii) the claimant shall be treated as having been entitled to and in receipt of income support or a jobseeker's allowance during any period of less than 5 weeks in

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respect of which he was not entitled to either of those benefits because, as a consequence of his participation in an employment zone programme, he was engaged in remunerative work; and

(iii) references to the claimant include references to his partner.

2. The conditions prescribed in this paragraph are that the claimant or the claimant's partner—
  - (a) notifies either the designated office or an appropriate DWP office that he or his partner—
    - (i) has commenced, or is about to commence, remunerative work;
    - (ii) has commenced, or is about to commence, receiving remuneration for work or an increased amount of remuneration for work; or
    - (iii) has commenced, or is about to commence, an increased number of hours of work, so that entitlement to income support or to an income-based jobseeker's allowance ceases and that work or, as the case may be, remuneration, is expected to last 5 weeks or more; and
  - (b) makes that notification no later than 4 weeks after the day on which the claimant or his partner first undertakes the remunerative work referred to in sub-paragraph (a)(i) or first receives remuneration for the work or an increased amount of remuneration for the work referred to in sub-paragraph (a)(ii), or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii).

## PART 2

### Calculation and payment of an extended payment

3. Except in the case of a mover, the amount of the extended payment shall be equal to the amount of council tax benefit allowed to the claimant for the last benefit week before he ceased to be entitled to council tax benefit.

### Movers

4. In the case of a mover who claims an extended payment the relevant authority to whom the mover is liable to pay council tax in respect of the second dwelling shall, upon receiving the mover's claim for an extended payment which meets the requirements of regulation 60, allow an extended payment, calculated in accordance with paragraph 5, to the mover.

### Movers and extended payments

5. In a case to which paragraph 4 applies—
  - (a) the maximum council tax benefit of the mover shall be the amount of the council tax calculated in accordance with regulation 57, save that no deduction shall be made in respect of non-dependants, other than any that fall to be taken into account pursuant to sub-paragraph (b);
  - (b) the extended payment shall be by way of a discharge to the value of such part of the liability to council tax for the period specified in regulation 60(6) less, in a case where the rebate to which paragraph 4 refers was subject to any deductions in respect of non-dependants pursuant to regulations 57(1) and 58, the amount of those deductions.



## PART 3

### Adjustment of entitlement in respect of an extended payment

6. Where an extended payment has been allowed and the person to whom it was made has also claimed council tax benefit for a period that includes any part of the period specified in regulation 60(6), the entitlement to council tax benefit, if any, of that claimant for council tax benefit, in respect of any or each of those weeks, shall be reduced by the amount that that extended payment has discharged his council tax liability, in respect of any such week.

## PART 4

### Interpretation

7. In this Schedule, except where the context otherwise requires—

“claimant” means a person claiming an extended payment;

“mover” means a claimant who changes the dwelling in which he is resident and in respect of which he is liable to pay council tax;

“the relevant day” means the day on which the claimant's entitlement to income support or an income-based jobseeker's allowance ceased; and

“second dwelling” means the dwelling to which a person has moved or is about to move, in which he is or will be resident, and where the liability to pay council tax in respect of his dwelling follows on immediately from the liability to pay council tax in respect of his previous dwelling.

## SCHEDULE 7

Regulation 61

Extended payments (severe disablement allowance and incapacity benefit) of council tax benefit

### Condition for an extended payment (severe disablement allowance and incapacity benefit)

1. The condition prescribed in this paragraph is that the claimant or the claimant's partner—

(a) notifies either the designated office or an appropriate DWP office that he or his partner—

(i) has commenced, or is about to commence, remunerative work;

(ii) has commenced, or is about to commence, receiving remuneration for work or an increased amount of remuneration for work; or

(iii) has commenced, or is about to commence, an increased number of hours of work,

so that entitlement to severe disablement allowance or incapacity benefit ceases and that work, or as the case may be, remuneration, is expected to last 5 weeks or more; and

(b) the notification is made no later than 4 weeks after the day on which the claimant or his partner first undertakes the remunerative work referred to in sub-paragraph (a)(i), first receives remuneration for the work or an increased amount of remuneration for the work referred to in sub-paragraph (a)(ii), or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii).

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### **Calculation and payment of an extended payment (severe disablement allowance and incapacity benefit)**

2. Except in the case of a mover, the amount of the extended payment (severe disablement allowance and incapacity benefit) shall be equal to the amount of council tax benefit allowed to the claimant for the last benefit week before he ceased to be entitled to council tax benefit.

### **Movers**

3. In the case of a mover who claims an extended payment (severe disablement allowance and incapacity benefit) the relevant authority to whom the mover is liable to pay council tax in respect of the second dwelling shall, upon receiving the mover's claim for an extended payment (severe disablement allowance and incapacity benefit) which meets the requirements of regulation 61(1), allow an extended payment (severe disablement allowance and incapacity benefit) calculated in accordance with paragraph 4 to the mover.

### **Movers and extended payments**

4. In a case to which paragraph 3 applies the amount of the extended payment (severe disablement allowance and incapacity benefit) shall be the lesser of—

- (a) the amount required to discharge such part of the liability for council tax for the period specified in regulation 61(6)(a), less, in a case where the rebate to which paragraph 2 refers was subject to any deductions in relation to non-dependants pursuant to regulations 57(1) and 58, the amount of those deductions; or
- (b) the amount of extended payment (severe disablement allowance and incapacity benefit) calculated in accordance with paragraph 2.

5. The maximum council tax benefit of a mover the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 4(a) shall be calculated in accordance with regulation 57(1), save that no deduction shall be made in respect of non-dependants, other than any that fall to be taken into account pursuant to paragraph 4(a).

### **Adjustment of entitlement in respect of an extended payment (severe disablement allowance and incapacity benefit)**

6. Where an extended payment (severe disablement allowance and incapacity benefit) has been allowed and the person to whom it was made has also claimed council tax benefit for a period that includes any part of the period specified in regulation 61(6)(a), the entitlement to council tax benefit, if any, of that claimant, in respect of each or any of those weeks, shall be reduced by the amount that that extended payment (severe disablement allowance and incapacity benefit) has discharged his council tax liability, in respect of any such week.

### **Interpretation**

7. In this Schedule—

“claimant” means a person claiming an extended payment (severe disablement allowance and incapacity benefit);

“mover” means a claimant who changes the dwelling in which he is resident and in respect of which he is liable to pay council tax;

“second dwelling” means the dwelling to which a person has moved, or is about to move, in which he is or will be resident, and where the liability to pay council tax in respect of his dwelling follows on immediately from the liability to pay council tax in respect of his previous dwelling.

## SCHEDULE 8

Regulation 76(1)

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 76 (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 76(2) (requests for statement of reasons) and the manner and time in which to do so.

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

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

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

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

7. Parts 2, 3 and 4 of this Schedule shall apply only to the decision notice given on a claim.

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

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

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

### PART 2

Awards where income support or an income-based jobseeker's allowance is payable

9. Where a person on income support or an income-based jobseeker's allowance is awarded council tax benefit, the decision notice shall include a statement as to—

- (a) his normal weekly amount of council tax which may be rounded to the nearest penny;

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- (b) the normal weekly amount of the council tax benefit, which amount may be rounded to the nearest penny;
- (c) the amount of and the category of non-dependant deductions made under regulation 58, if any;
- (d) the first day of entitlement to the council tax benefit;
- (e) his duty to notify any change of circumstances which might affect his entitlement to, or the amount of council tax benefit and, without prejudice to the extent of the duty owed under regulation 74 (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,

and in any case where the amount to which sub-paragraph (a) or (b) refers disregards fractions of a penny, the notice shall include a statement to that effect.

### **PART 3**

#### Awards where no income support or an income-based jobseeker's allowance is payable

**10.** Where a person is not on income support or on an income-based jobseeker's allowance but is awarded council tax benefit, the decision notice shall include a statement as to—

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

### **PART 4**

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

**11.** Where an authority makes a decision under regulation 16 (circumstances in which income and capital of a non-dependant is to be treated as claimant's) the decision notice shall contain a statement as to—

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

### **PART 5**

#### Notice where no award is made

**12.** Where a person is not awarded council tax benefit under regulation 57 (maximum council tax benefit)—

- (a) on grounds of income, the decision notice shall include a statement as to—
  - (i) the matters set out in paragraphs 9(a); and
  - (ii) the matters set out in paragraphs 10(b) to (d) where the person is not on income support or an income-based jobseeker's allowance;

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- (b) on the grounds that the amount of the alternative maximum council tax benefit exceeds the appropriate maximum council tax benefit, the matters set out in paragraph 15;
- (c) for any reason other than one mentioned in sub-paragraphs (a) and (b), the decision notice shall include a statement as to the reason why no award has been made.

## PART 6

Awards where alternative maximum council tax benefit is payable in respect of a day

**13.** Where a person is awarded council tax benefit determined in accordance with regulation 62 and Schedule 2 (alternative maximum council tax benefit) the decision notice shall include a statement as to—

- (a) the normal weekly amount of council tax, which amount may be rounded to the nearest penny;
- (b) the normal weekly amount of the alternative maximum council tax benefit, which amount may be rounded to the nearest penny;
- (c) the gross income or incomes and the rate of benefit which apply under Schedule 2;
- (d) the first day of entitlement to benefit;
- (e) the gross income of any second adult used to determine the rate of the alternative maximum council tax benefit or if any such adult is on income support, state pension credit or an income-based jobseeker's allowance;
- (f) the claimant's duty to notify any change of circumstances which might affect his entitlement to, or the amount of the alternative maximum council tax benefit and, without prejudice to the extent of the duty owed under regulation 74 (duty to notify changes of circumstances) the kind of change of circumstances which are to be notified, either upon the notice or by reference to some other document available to the claimant free of charge on application,

and in any case where the amount to which sub-paragraph (a) or (b) refers disregards fractions of a penny, the notice shall include a statement to that effect.

### Notice where no award of alternative maximum council tax benefit is made

**14.** Where a person is not awarded council tax benefit in accordance with regulation 62 and Schedule 2 (alternative maximum council tax benefit)—

- (a) on the grounds that the gross income or as the case may be the aggregate gross incomes, of any second adult or adults in the claimant's dwelling is too high, the decision notice shall include a statement as to the matters set out in paragraphs 13(a), (c) and (e);
- (b) on the grounds that the appropriate maximum council tax benefit is higher than the alternative maximum council tax benefit, the decision notice shall include a statement as to the matters set out in paragraph 15 below;
- (c) for any reason not referred to in sub-paragraphs (a) and (b), the decision notice shall include a statement as to why no award has been made.

### Notice where council tax benefit is awarded and section 131(9) of the Act applies

**15.** Where the amount of a claimant's council tax benefit in respect of a day is the greater of the appropriate maximum council tax benefit and the alternative maximum council tax benefit in his case the notice shall in addition to the matters set out in paragraphs 9, 10 or 13, as the case may be, include a statement as to—

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- (a) the amount of whichever is the lesser of the appropriate maximum council tax benefit or the alternative maximum council tax benefit in his case, which amount may be rounded to the nearest penny; and
- (b) that this amount has not been awarded in consequence of the award of council tax benefit at a higher rate,

and in any case where the amount to which sub-paragraph (a) refers disregards fractions of a penny, the notice shall include a statement to that effect.

## PART 7

### Notice where there is recoverable excess benefit

**16.—**(1) Except in cases to which paragraphs (a) and (b) of regulation 82 (excess benefit in consequence of a reduction in a relevant authority's council tax) refers, where the relevant authority makes a decision that there is recoverable excess benefit within the meaning of regulation 83 (recoverable excess benefits), the decision notice shall include a statement as to—

- (a) the fact that there is recoverable excess benefit;
- (b) the reason why there is recoverable excess benefit;
- (c) the amount of recoverable excess benefit;
- (d) how the amount of recoverable excess benefit was calculated;
- (e) the benefit weeks to which the recoverable excess benefit relates; and
- (f) the method or combination of methods by which the authority intends to recover the recoverable excess benefit, including—
  - (i) payment by or on behalf of the person concerned of the amount due by the specified date;
  - (ii) addition of the amount due to any amount in respect of the tax concerned for payment whether by instalments or otherwise by the specified date or dates; or
  - (iii) if recovery cannot be effected in accordance with heads (i) or (ii), requesting the Secretary of State to recover the excess benefits by deduction from the benefit prescribed in regulation 90 (recovery of excess benefits from prescribed benefits).

## [<sup>F40</sup>SCHEDULE 9

### Electronic Communication

#### Textual Amendments

**F40** Sch. 9 inserted (20.12.2006) by [Housing Benefit and Council Tax Benefit \(Electronic Communications\) Order 2006 \(S.I. 2006/2968\)](#), art. 1 reg. 4(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.

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## 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
- (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.



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### **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..]

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