

## SCHEDULE 6

### HOUSING COSTS

#### General provisions applying to new and existing housing costs

**12.**—(1) Where on or after 2nd October 1995 a person enters into a new agreement in respect of a dwelling and an agreement entered into before 2nd October 1995 (“the earlier agreement”) continues in force independently of the new agreement, then—

- (a) the housing costs applicable to the new agreement are to be calculated by reference to the provisions of paragraph 9 (new housing costs);
- (b) the housing costs applicable to the earlier agreement are to be calculated by reference to the provisions of paragraph 8 (existing housing costs);

and the resulting amounts are to be aggregated.

(2) Sub-paragraph (1) does not apply in the case of a claimant to whom paragraph 10 applies.

(3) Where for the time being a loan exceeds, or in a case where more than one loan is to be taken into account, the aggregate of those loans exceeds the appropriate amount specified in sub-paragraph (4), then the amount of the loan or, as the case may be, the aggregate amount of those loans, will for the purposes of this Schedule, be the appropriate amount.

(4) Subject to the following provisions of this paragraph, the appropriate amount is £100,000.

(5) Where a claimant is treated under paragraph 5(6) (payments in respect of two dwellings) as occupying two dwellings as the home, then the restrictions imposed by sub-paragraph (3) are to be applied separately to the loans for each dwelling.

(6) In a case to which paragraph 7 (apportionment of housing costs) applies, the appropriate amount for the purposes of sub-paragraph (3) is to be the lower of—

- (a) a sum determined by applying the formula—

$$PxQ$$

where—

P = the relevant fraction for the purposes of paragraph 7; and

Q = the amount or, as the case may be, the aggregate amount for the time being of any loan or loans which qualify under this Schedule; or

- (b) the sum for the time being specified in sub-paragraph (4).

(7) In a case to which paragraph 16(3) or 17(3) (loans which qualify in part only) applies, the appropriate amount for the purposes of sub-paragraph (3) is to be the lower of—

- (a) a sum representing for the time being the part of the loan applied for the purposes specified in paragraph 16(1) or (as the case may be) paragraph 17(1); or
- (b) the sum for the time being specified in sub-paragraph (4).

(8) In the case of any loan to which paragraph 17(2)(k) (loan taken out and used for the purpose of adapting a dwelling for the special needs of a disabled person) applies the whole of the loan, to the extent that it remains unpaid, is to be disregarded in determining whether the amount for the time being specified in sub-paragraph (4) is exceeded.

(9) Where in any case the amount for the time being specified for the purposes of sub-paragraph (4) is exceeded and there are two or more loans to be taken into account under either or both paragraphs 16 and 17, then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding is to be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.

*Status: Point in time view as at 06/04/2015. This version of this provision has been superseded.  
Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Paragraph 12. (See end of Document for details)*

(10) For the purposes of sub-paragraph (9), the qualifying portion of a loan is to be determined by applying the following formula—

$$R \times \frac{S}{T}$$

where—

- R = the amount for the time being specified for the purposes of sub-paragraph (3);
- S = the amount of the outstanding loan to be taken into account; and
- T = the aggregate of all outstanding loans to be taken into account under paragraphs 16 and 17.

[<sup>F1</sup>(11) Sub-paragraph (12) applies to a person who, had the person been entitled to income support and not an employment and support allowance, would have been a person to whom any of the following transitional or savings provisions would have applied—

- (a) regulation 4 of the Income Support (General) Amendment No. 3 Regulations 1993 (“the 1993 Regulations”);
- (b) regulation 28 of the Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995 (“the 1995 Regulations”).

(12) Where this sub-paragraph applies, the amount of housing costs applicable in the particular case shall be determined as if—

- (a) in a case to which regulation 4(1) of the 1993 Regulations would have applied, sub-paragraphs 12(4) to (9) do not apply;
- (b) in a case to which regulation 4(4) of the 1993 Regulations would have applied, the appropriate amount is £150,000; and
- (c) in a case to which the 1995 Regulations would have applied, the appropriate amount is £125,000.]

#### Textual Amendments

- F1** Sch. 6 para. 12(11)(12) added (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **16(f)**

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

- C1** Sch. 6 para. 12 applied (with modifications) (5.1.2009) by [The Social Security \(Housing Costs Special Arrangements\) \(Amendment and Modification\) Regulations 2008 \(S.I. 2008/3195\)](#), regs. 1(3), **9(f)(i)** (with reg. 8)
- C2** Sch. 6 para. 12(1)(2) applied (with modifications) (5.1.2009) by [The Social Security \(Housing Costs Special Arrangements\) \(Amendment and Modification\) Regulations 2008 \(S.I. 2008/3195\)](#), regs. 1(3), **9(f)(ii)** (with reg. 8)
- C3** Sch. 6 para. 12(4) applied (with modifications) (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Housing Costs Special Arrangements\) \(Amendment and Modification\) Regulations 2008 \(S.I. 2008/3195\)](#), regs. 1(2), **4(c)** (with regs. 3, 7)
- C4** Sch. 6 para. 12(4) sum maintained (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), arts. 1(2)(j), 22(1)(5), **Sch. 15**
- C5** Sch. 6 para. 12(6)(a) sum maintained (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), arts. 1(2)(j), 22(1)(5), **Sch. 15**
- C6** Sch. 6 para. 12(10) sum maintained (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), arts. 1(2)(j), 22(1)(5), **Sch. 15**
- C7** Sch. 6 para. 12(12)(b) sum maintained (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), arts. 1(2)(j), 22(1)(5), **Sch. 15**

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**Changes to legislation:** There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Paragraph 12. (See end of Document for details)

**C8** Sch. 6 para. 12(12)(c) sum maintained (coming into force in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), arts. 1(2)(j), 22(1)(5), **Sch. 15**

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**Changes to legislation:**

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