

SCHEDULE 6

HOUSING COSTS

Linking rule

- 15.—**(1) Subject to sub-paragraph (2), for the purposes of this Schedule—
- (a) a claimant is to be treated as being in receipt of an income-related allowance during the following periods—
 - (i) any period in respect of which it was subsequently determined that that claimant was entitled to an income-related allowance; and
 - (ii) any period of 12 weeks or less or, as the case may be, 52 weeks or less, in respect of which that claimant was not in receipt of an income-related allowance and which fell immediately between periods in respect of which—
 - (aa) that claimant was, or was treated as being, in receipt of an income-related allowance;
 - (bb) that claimant was treated as entitled to an income-related allowance for the purpose of sub-paragraph (9) or (10); or
 - (cc) (i) above applies;
 - (b) a claimant is to be treated as not being in receipt of an income-related allowance during any period other than a period to which (a)(ii) above applies in respect of which it is subsequently determined that that claimant was not so entitled;
 - (c) where—
 - (i) the claimant was a member of a couple or a polygamous marriage; and
 - (ii) the claimant's partner was, in respect of a past period, in receipt of an income-related allowance for that claimant's partner and the claimant; and
 - (iii) the claimant is no longer a member of that couple or polygamous marriage; and
 - (iv) the claimant made a claim for an income-related allowance within 12 weeks or, as the case may be, 52 weeks, of ceasing to be a member of that couple or polygamous marriage,the claimant must be treated as having been in receipt of an income-related allowance for the same period as the claimant's former partner had been or had been treated, for the purposes of this Schedule, as having been;
 - (d) where the claimant's partner's applicable amount was determined in accordance with paragraph 1(1) (single claimant) or paragraph 1(2) (lone parents) of Part 1 of Schedule 4 (prescribed amounts) in respect of a past period, provided that the claim was made within 12 weeks or, as the case may be, 52 weeks, of the claimant and that claimant's partner becoming one of a couple or polygamous marriage, the claimant is to be treated as having been in receipt of an income-related allowance for the same period as the claimant's partner had been or had been treated, for the purposes of this Schedule, as having been;
 - (e) where the claimant is a member of a couple or a polygamous marriage and the claimant's partner was, in respect of a past period, in receipt of an income-related allowance for that claimant's partner and the claimant, and the claimant has begun to receive an income-related allowance as a result of an election by the members of the couple or polygamous marriage, that claimant is to be treated as having been in receipt of an income-related allowance for the same period as that claimant's partner had been or had been treated, for the purposes of this Schedule, as having been;
 - (f) where the claimant—

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- (i) is a member of a couple or a polygamous marriage and the claimant's partner was, immediately before the participation by any member of that couple or polygamous marriage in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations, in receipt of an income-related allowance and the claimant's applicable amount included an amount for the couple or for the partners of the polygamous marriage; and
- (ii) has, immediately after that participation in that programme, begun to receive an income-related allowance as a result of an election under regulation 4(3) of the Social Security (Claims and Payments) Regulations 1987⁽¹⁾ by the members of the couple or polygamous marriage,

the claimant is to be treated as having been in receipt of an income-related allowance for the same period as that claimant's partner had been or had been treated, for the purposes of this Schedule, as having been;

(g) where—

- (i) the claimant was a member of a family of a person (not being a former partner) entitled to an income-related allowance and at least one other member of that family was a child or young person;
- (ii) the claimant becomes a member of another family which includes that child or young person; and
- (iii) the claimant made a claim for an income-related allowance within 12 weeks or, as the case may be, 52 weeks, of the date on which the person entitled to an income-related allowance mentioned in paragraph (i) above ceased to be so entitled,

the claimant is to be treated as being in receipt of an income-related allowance for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

(2) Where a claimant, with the care of a child, has ceased to be in receipt of an income-related allowance in consequence of the payment of child support maintenance under the Child Support Act and immediately before ceasing to be so in receipt an amount determined in accordance with paragraph 8(1)(a)(i) or paragraph 9(1)(a)(i) was applicable to that claimant, then—

- (a) if the child support maintenance assessment or, as the case may be, maintenance calculation concerned is terminated or replaced by a lower assessment or, as the case may be, calculation in consequence of the coming into force on or after 18th April 1995 of regulations made under the Child Support Act; or
- (b) where the child support maintenance assessment or, as the case may be, maintenance calculation concerned is an interim maintenance assessment or, as the case may be, interim maintenance decision or default maintenance decision and, in circumstances other than those referred to in paragraph (a), it is terminated or replaced after termination by another interim maintenance assessment or, as the case may be, interim maintenance decision or default maintenance decision or by a maintenance assessment or, as the case may be, calculation made in accordance with Part 1 of Schedule 1 to the Child Support Act, in either case of a lower amount than the assessment or, as the case may be, calculation concerned,

sub-paragraph (1)(a)(ii) will apply to that claimant as if for the words “any period of 12 weeks or less” there were substituted the words “any period of 26 weeks or less”.

(3) For the purposes of this Schedule, where a claimant has ceased to be entitled to an income-related allowance because that claimant or that claimant's partner is—

(1) S.I. 1987/1968, the relevant amending instruments are S.I. 1996/2431 and S.I. 2005/2877.

- (a) participating in arrangements for training made under section 2 of the Employment and Training Act 1973⁽²⁾ or section 2 of the Enterprise and New Towns (Scotland) Act 1990⁽³⁾; or
- (b) attending a course at an employment rehabilitation centre established under that section, the claimant is to be treated as if that claimant had been in receipt of an income-related allowance for the period during which that claimant or that claimant's partner was participating in such arrangements or attending such a course.

(4) For the purposes of this Schedule, a claimant who has ceased to be entitled to an income-related allowance because—

- (a) that claimant or that claimant's partner was participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or in an employment zone scheme; and
- (b) in consequence of such participation the claimant or the claimant's partner was engaged in remunerative work or had an income in excess of the claimant's applicable amount as prescribed in Part 9,

will be treated as if the claimant had been in receipt of an income-related allowance for the period during which that claimant or that claimant's partner was participating in that programme or activity.

(5) Where, for the purposes of sub-paragraphs (1), (3) and (4), a claimant is treated as being in receipt of an income-related allowance, for a certain period, that claimant will, subject to sub-paragraph (6), be treated as being entitled to an income-related allowance for the same period.

(6) Where the appropriate amount of a loan exceeds the amount specified in paragraph 12(4), sub-paragraph (5) will not apply except—

- (a) for the purposes of paragraph 8(1) or 9(1); or
- (b) where a claimant has ceased to be in receipt of an income-related allowance for a period of 104 weeks or less because that claimant or that claimant's partner is a work or training beneficiary within the meaning of regulation 148 (work or training beneficiaries).

(7) For the purposes of this Schedule, in determining whether a claimant is entitled to or to be treated as entitled to an income-related allowance, entitlement to a contribution-based jobseeker's allowance immediately before a period during which that claimant or that claimant's partner is participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations is to be treated as entitlement to an income-related allowance for the purposes of any requirement that a claimant is, or has been, entitled to an income-related allowance for any period of time.

(8) For the purposes of this Schedule, sub-paragraph (9) applies where a claimant is not entitled to an income-related allowance by reason only that the claimant has—

- (a) capital exceeding £16,000; or
- (b) income exceeding the applicable amount which applies in that claimant's case; or
- (c) both capital exceeding £16,000 and income exceeding the applicable amount which applies in that claimant's case.

(9) A claimant to whom sub-paragraph (8) applies is to be treated as entitled to an income-related allowance throughout any period of not more than 39 weeks which comprises only days—

(2) 1973 c. 50.

(3) 1990 c. 35.

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- (a) on which that claimant is entitled to a contributory allowance, a contribution-based jobseeker's allowance, statutory sick pay or incapacity benefit; or
- (b) on which that claimant is, although not entitled to any of the benefits mentioned in paragraph (a) above, entitled to be credited with earnings equal to the lower earnings limit for the time being in force in accordance with regulation 8A or 8B of the Social Security (Credits) Regulations 1975⁽⁴⁾.

(10) Subject to sub-paragraph (11), a claimant to whom sub-paragraph (8) applies and who is either a lone parent or a person who is described in paragraph 4 or 5 of Schedule 1B of the Income Support Regulations (persons caring for another person) is, for the purposes of this Schedule, to be treated as entitled to an income-related allowance throughout any period of not more than 39 weeks following the refusal of a claim for an income-related allowance made by or on behalf of that claimant.

(11) Sub-paragraph (10) will not apply in relation to a claimant mentioned in that sub-paragraph who, during the period referred to in that sub-paragraph—

- (a) is engaged in, or is treated as engaged in, remunerative work or whose partner is engaged in, or is treated as engaged in, remunerative work;
- (b) is a claimant in receipt of a disability living allowance and in full-time education;
- (c) is temporarily absent from Great Britain, other than in the circumstances specified in regulation 152 or 153(1)(c)(ii) (temporary absence from Great Britain).

(12) In a case where—

- (a) sub-paragraphs (9) and (10) apply solely by virtue of sub-paragraph (8)(b); and
- (b) the claimant's income includes payments under a policy taken out to insure against the risk that the policy holder is unable to meet any loan or payment which qualifies under paragraphs 16 to 18,

sub-paragraphs (9) and (10) will have effect as if for the words "throughout any period of not more than 39 weeks" there will be substituted the words "throughout any period that payments are made in accordance with the terms of the policy".

(13) This sub-paragraph applies—

- (a) to a person who claims an income-related allowance, or in respect of whom an income-related allowance is claimed and who—
 - (i) received payments under a policy of insurance taken out to insure against loss of employment, and those payments are exhausted; and
 - (ii) had a previous award of an income-related allowance where the applicable amount included an amount by way of housing costs; and
- (b) where the period in respect of which the previous award of an income-related allowance was payable ended not more than 26 weeks before the date the claim was made.

(14) Where sub-paragraph (13) applies, in determining—

- (a) for the purposes of paragraph 8(1) whether a claimant has been entitled to an income-related allowance for a continuous period of 26 weeks or more; or
- (b) for the purposes of paragraph 9(1) whether a claimant has been entitled to an income-related allowance for a continuous period of 39 weeks or more,

any week falling between the date of the termination of the previous award and the date of the new claim is to be ignored.

(4) S.I. 1975/556, the relevant amending instruments are S.I. 1996/2367, S.I. 2000/3120, S.I. 2001/518, S.I. 2001/1711, S.I. 2002/490, S.I. 2003/521 and S.I. 2007/1749.

(15) In the case of a claimant who is a work or training beneficiary, the references in sub-paragraphs (1)(a)(ii), (1)(c)(iv), (1)(d) and (1)(g)(iii) to a period of 12 weeks is to be treated as references to a period of 104 weeks.

(16) For the purposes of sub-paragraph (1)(a)(ii), (1)(c)(iv), (1)(d) and (1)(g)(iii), the relevant period will be—

- (a) 52 weeks in the case of a person to whom sub-paragraph (17) applies;
- (b) subject to sub-paragraph (15), 12 weeks in any other case.

(17) This sub-paragraph applies, subject to sub-paragraph (18), in the case of a claimant who, on or after 27th October 2008, has ceased to be entitled to an income-related allowance because that claimant or that claimant's partner—

- (a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which that claimant or that claimant's partner is engaged in such employment;
- (b) is taking active steps to establish that claimant or that claimant's partner in employment as an employed earner or as a self-employed earner under any scheme for assisting persons to become so employed which is mentioned in regulation 19(1)(r)(i) to (iii) of the Jobseeker's Allowance Regulations; or
- (c) is participating in—
 - (i) a New Deal option;
 - (ii) an employment zone programme; or
 - (iii) the self-employment route; or
 - (iv) the Intensive Activity Period specified in regulation 75(1)(a)(iv) of the Jobseeker's Allowance Regulations,

and, as a consequence, that claimant or that claimant's partner was engaged in remunerative work or had income in excess of the applicable amount as prescribed in Part 9.

(18) Sub-paragraph (17) is only to apply to the extent that immediately before the day on which the claimant ceased to be entitled to an income-related allowance, that claimant's housing costs were being met in accordance with paragraph 8(1)(a), 8(1)(b) or 9(1)(a) or would have been so met but for any non-dependant deduction under paragraph 19.

(19) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where a claimant's former partner was entitled to state pension credit, any reference to an income-related allowance in this Schedule is to be taken to include also a reference to state pension credit.

(20) Where a person is one to whom regulation 6(5) of the Income Support Regulations (persons not treated as engaged in remunerative work) applies, the period prescribed in paragraph (6) of that regulation is not to be included for the purposes of any linking rule or for determining whether any qualifying or other period is satisfied.