

## SCHEDULES

### SCHEDULE 1

Regulations 5, 6 and 7

#### Eligibility

##### Eligibility criteria

- 1.—(1) The eligibility criteria are—
- (a) a person is under the age of 16 years;
  - (b) a person is under the age of 19 years and receiving qualifying full-time education within the meaning of section 71(3) of the Act (arrangements for general ophthalmic services);
  - (c) a person is aged 60 years or more;
  - (d) a person's resources are treated under sub-paragraph (2) as being less than, or equal to, that person's requirements;
  - (e) a person requires to wear a complex appliance;
  - (f) a person is registered as sight-impaired or severely sight-impaired in a register kept by a local authority—
    - (i) in Wales, under section 18(1) of the Social Services and Well-being (Wales) Act 2014 (registers of sight-impaired, hearing-impaired and other disabled people), or
    - (ii) in England, under section 77(1) of the Care Act 2014<sup>(1)</sup> (registers of sight-impaired adults, disabled adults, etc.);
  - (g) a person has received a diagnosis of diabetes or glaucoma, or has been advised by an ophthalmologist to be predisposed to the development of glaucoma;
  - (h) a person is aged 40 or more and is the parent, brother, sister or child of a person who has been diagnosed with glaucoma;
  - (i) a person is a prisoner;
  - (j) a person is unioocular;
  - (k) a person has a hearing impairment;
  - (l) a person has been diagnosed with retinitis pigmentosa;
  - (m) a person has been clinically assessed as being at particular risk of developing eye disease.
- (2) A person's resources must be treated as being less than or equal to that person's requirements if—
- (a) the person is in receipt of income support;
  - (b) the person is a member of the same family as a person who is in receipt of income support;
  - (c) the person's income resources as calculated in accordance with Part 4 of, and Schedule 1 to, the National Health Service (Travel Expenses and Remission of Charges) (Wales)

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<sup>(1)</sup> 2014 c. 23.

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Regulations 2007(2) for the purposes of remission of charges under the Act are less than the person's requirements as so calculated or exceed the person's requirements as so calculated by 50 per cent or less of the amount of the charge specified in regulation 3(2)(b) of the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007(3) (supply of drugs and appliances by chemists) and the person's capital resources as so calculated do not exceed the capital limit;

- (d) the person is a member of the same family as a person falling within paragraph (c);
- (e) the person is in receipt of an income-based jobseeker's allowance;
- (f) the person is a member of the same family as a person falling within paragraph (e);
- (g) the person is a relevant child for the purposes of section 23A of the Children Act 1989(4) to whose maintenance a responsible local authority is contributing under section 23B(8) of that Act;
- (h) the person is a category 2 young person within the meaning of section 104(2) of the Social Services and Well-being (Wales) Act 2014 to whose maintenance a responsible local authority is contributing under section 109(1) of that Act;
- (i) the person is a member of a family—
  - (i) one member of which is receiving—
    - (aa) working tax credit and child tax credit,
    - (bb) working tax credit which includes a disability element or a severe disability element, or
    - (cc) child tax credit, but is not eligible to receive working tax credit, and
  - (ii) where the gross annual income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002(5) is determined at the time of the award not to exceed £15,276;
- (j) the person is a person in respect of whom there is a current notice of entitlement;
- (k) the person is a member of a family one member of which is receiving pension credit guarantee credit;
- (l) the person is in receipt of income-related employment and support allowance;
- (m) the person is a member of the same family as a person in receipt of income-related employment and support allowance;
- (n) that person is a relevant universal credit recipient.

(3) In sub-paragraph (1)(g), “ophthalmologist” means a medical practitioner whose name is included in the register of specialists kept by the General Medical Council under section 34D of the Medical Act 1983(6) (the specialist register) and that register indicates his speciality to be ophthalmology.

(4) In sub-paragraph (2)(n), “relevant universal credit recipient” means a person who, in the relevant assessment period—

- (a) had an award of universal credit, either as a single claimant or as one of joint claimants, where—

(2) S.I. 2007/1104 (W. 116); relevant amending instruments are S.I. 2008/1480 (W. 153), S.I. 2009/54 (W. 18), S.I. 2009/2365 (W. 193), S.I. 2010/1237 (W. 107), S.I. 2011/1940 (W. 208), S.I. 2013/684 (W. 82), S.I. 2014/1099 (W. 109), S.I. 2016/211 (W. 84), S.I. 2017/340 (W. 84) and S.I. 2018/48 (W. 15).

(3) S.I. 2007/121 (W. 11), to which there are amendments not relevant to these Regulations.

(4) 1989 c. 41; section 23A was inserted by section 2(4) of the Children (Leaving Care) Act 2000 (c. 35) and was amended by paragraph 8(3) of Schedule 3 to the Children and Young Persons Act 2008 (c. 23) and regulation 74 of S.I. 2016/413 (W. 131).

(5) 2002 c. 21; Part 1 is repealed except in relation to a case referred to in article 3 of S.I. 2019/167.

(6) Section 34D was added by paragraph 10 of Schedule 1 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I. 2010/234) and was amended by paragraph 19 of Schedule 1(1) to S.I. 2019/593.

- (i) the award did not include the child element,
  - (ii) the single claimant or, as the case may be, both joint claimants, did not have limited capability for work, and
  - (iii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £435.00 or less;
- (b) had an award of universal credit, either as a single claimant or as one of joint claimants, where—
- (i) the award included the child element, and
  - (ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less;
- (c) had an award of universal credit, either as a single claimant or as one of joint claimants, where—
- (i) the single claimant or, as the case may be, one or both joint claimants, had limited capability for work, and
  - (ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less;
- (d) was a qualifying young person for whom a recipient referred to in paragraph (b) or (c) is responsible (within the meaning of Part 1 of the 2012 Act<sup>(7)</sup> (universal credit) and regulations made thereunder).
- (5) Where sub-paragraph (6) applies, a person must be treated as falling within the description of a relevant universal credit recipient in sub-paragraph (2)(n).
- (6) This sub-paragraph applies where the conditions in paragraph (a), (b), (c) or (d) of sub-paragraph (4) are satisfied in the assessment period in which the sight test takes place and—
- (a) there is no relevant assessment period, or
  - (b) none of those conditions were satisfied in the relevant assessment period.
- (7) In sub-paragraph (2), “family” has the meaning assigned to it by section 137(1) of the Social Security Contributions and Benefits Act 1992<sup>(8)</sup> (interpretation of Part VII and supplementary provisions) as it applies to income support except that—
- (a) in paragraphs (b), (d) and (k), it has the meaning assigned to it by section 35 of the Jobseekers Act 1995<sup>(9)</sup> (interpretation);
  - (b) in paragraph (g), it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002<sup>(10)</sup> (interpretation);
  - (c) in paragraph (m), it has the meaning assigned to it by regulation 2 of the Employment and Support Allowance Regulations 2008<sup>(11)</sup> (interpretation).
- (8) In this paragraph—
- “the 2012 Act” (“*Deddf 2012*”) means the Welfare Reform Act 2012;
- “assessment period” (“*cyfnod asesu*”) means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013<sup>(12)</sup> (assessment periods);

(7) 2012 c. 5; there are amendments to Part 1 which are not relevant to these Regulations.

(8) 1992 c. 4; section 137(1) was amended by paragraph 22 of Schedule 1 to S.I. 2014/560. There are other amendments to that section that are not relevant to these Regulations.

(9) 1995 c. 18; section 35 was amended by paragraph 124(3) of Schedule 24(7) to the Civil Partnership Act 2004 (c. 33). There are other amendments to that section that are not relevant to these Regulations.

(10) S.I. 2002/2006, amended by S.I. 2005/1919; there are other amending instruments but none is relevant.

(11) S.I. 2008/794, to which there are amendments not relevant to these Regulations.

(12) S.I. 2013/376; relevant amending instruments are S.I. 2014/2887 and S.I. 2018/65.

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“capital limit” (“*terfyn cyfalaf*”) means the amount prescribed for the purposes of section 134(1) of the Social Security Contributions and Benefits Act 1992 (exclusions from benefit) as it applies to income support;

“child element” (“*elfen plenty*”) means the child element of universal credit as specified in regulation 24(1) of the Universal Credit Regulations 2013(13) (the child element);

“child tax credit” (“*credyd treth plant*”) means child tax credit under section 8 of the Tax Credits Act 2002 (entitlement);

“disability element” (“*elfen anabled*”) means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002 (maximum rate);

“earned income” (“*incwm a enillir*”) means a person’s earned income as defined by Chapter 2 of Part 6 of the Universal Credit Regulations 2013 (calculation of capital and income – earned income);

“gross annual income” (“*incwm blynyddol gros*”) means income that is calculated for a tax year for the purposes of Part 1 of the Tax Credits Act 2002 in accordance with regulations made under section 7 of that Act (income test);

“an income-based jobseeker’s allowance” (“*lwfans ceisio gwaith yn seiliedig ar incwm*”) has the meaning given to it by section 1(4) of the Jobseekers Act 1995(14) (the jobseeker’s allowance);

“income support” (“*cymhorthdal incwm*”) means income support under Part VII of the Social Security Contributions and Benefits Act 1992 and includes personal expenses addition, special transitional addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987(15) (interpretation);

“income-related employment and support allowance” (“*lwfans cyflogaeth a chymorth yn seiliedig ar incwm*”) means an employment and support allowance, entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007(16) (income-related employment and support allowance);

“joint claimants” (“*hawlwyr ar y cyd*”) has the meaning given in section 40 of the 2012 Act (interpretation of Part 1);

“limited capability for work” (“*gallu cyfyngedig i weithio*”) means limited capability for work or limited capability for work and work-related activity as interpreted in accordance with regulations 39 and 40 respectively of the Universal Credit Regulations 2013(17) (limited capability for work; limited capability for work and work-related activity);

“pension credit guarantee credit” (“*credyd gwarant y credyd pensiwn*”) must be interpreted in accordance with sections 1 and 2 of the State Pension Credit Act 2002(18) (entitlement; guarantee credit);

“prisoner” (“*carcharor*”) means a person who is detained in a prison, including a young offender institution, a secure training centre, and a naval, military or air force prison, but is, at the time of receiving any general ophthalmic service, on leave from that prison, and for the purposes of this definition—

(13) S.I. 2013/376, amended by the Welfare Reform and Work Act 2016 (c. 7), section 14(5); there are other amending instruments but none is relevant.

(14) 1995 c. 18; section 1(4) was repealed by the Welfare Reform Act 2012 (c. 5), Schedule 14, paragraph 1. That repeal has effect on different days for different areas and purposes in relation to any provision of Part 1 of the 2012 Act (c. 5) or Part 1 of Schedule 14 to that Act.

(15) S.I. 1987/1969, to which there are amendments not relevant to these Regulations.

(16) 2007 c. 5; section 1(2)(b) was repealed by the Welfare Reform Act 2012 (c. 5), Schedule 14, paragraph 1. That repeal has effect on different days for different areas and purposes in relation to any provision of Part 1 of the 2012 Act (c. 5) or Part 1 of Schedule 14 to that Act.

(17) S.I. 2013/376, amended by S.I. 2014/597.

(18) 2002 c. 16; section 2 was amended by Schedule 24 to the Civil Partnership Act 2004 (c. 33).

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(a) “secure training centre” means a place in which offenders subject to detention and training orders within the meaning given by section 233 of the Sentencing Code<sup>(19)</sup> (detention and training order) may be detained and given training and education and prepared for their release, and

(b) “young offender institution” means a place for the detention of offenders sentenced to detention in a young offender institution or to custody for life;

“qualifying young person” (“*person ifanc cymhwysol*”) has the meaning given in section 10(5) of the 2012 Act (responsibility for children and young persons);

“relevant assessment period” (“*cyfnod asesu perthnasol*”) means the assessment period immediately preceding that in which the sight test take place;

“severe disability element” (“*elfen anabledd difrifol*”) means the severe disability element of working tax credit as specified in section 11(6)(d) of the Tax Credits Act 2002 (maximum rate);

“single claimant” (“*hawlydd unigol*”) has the meaning given in section 40 of the 2012 Act (interpretation of Part 1);

“universal credit” (“*credyd cynhwysol*”) means universal credit under Part 1 of the 2012 Act;

“working tax credit” (“*credyd treth gwaith*”) means working tax credit under section 10 of the Tax Credits Act 2002 (entitlement).

(9) In this paragraph and paragraph 2—

“complex appliance” (“*teclyn cymhleth*”) means an optical appliance at least one lens of which—

(a) has a power in any one meridian of plus or minus 10 or more dioptres, or

(b) is a prism-controlled multifocal lens;

“notice of entitlement” (“*hysbysiad o hawlogaeth*”) means a notice issued under regulation 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (notices of entitlement).

### Specific evidence of eligibility for certain persons

2.—(1) Subject to sub-paragraph (2), the specific evidence mentioned in regulation 6(5) is—

(a) for a person who is eligible only by virtue of paragraph 1(1)(d) and (2)(c) or (d), a current notice of entitlement;

(b) for a person who is eligible only by virtue of paragraph 1(1)(e), the prescription for a complex appliance issued to that person on the occasion when the person’s sight was last tested;

(c) for a person who is eligible only by virtue of paragraph 1(1)(g), the name and address of that person’s medical practitioner and consent to the Local Health Board seeking confirmation of the person’s diabetes or glaucoma from that person’s medical practitioner, set out on a form provided for that purpose to contractors by the Local Health Board.

(2) Where an eligible person to whom sub-paragraph (1)(b) applies is unable to meet its requirements, the contractor may instead of satisfying themselves that those requirements are met, satisfy themselves that the person is an eligible person by referring to the contractor’s own records or by measuring the power of the lenses of the person’s existing optical appliance by means of a focimeter or other suitable means.

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<sup>(19)</sup> See section 1(1) of the Sentencing Act 2020 (c. 17) which states that Parts 2 to 13 of that Act together make up a code called the “Sentencing Code”.

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