

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

The Law Relating to Social Security

Volume 8 Supplement 95 – June 2011

1. Supplements to The Law Relating to Social Security are issued at regular intervals. This supplement [95] includes amendments to the Contents Volume and Volumes 1, 2, 3, 4, 5, 6, 8, 11 and 13.
2. This package contains various miscellaneous amendments to Volume 8.
3. These supplements are now issued in PDF format only.
4. The amended pages have been reprinted in full. The supplement number is printed at the bottom of each replacement page. This supplement contains an update of the page check list at the back of the volume.
5. Due to space constraints, DMA can only reproduce legislation currently in force. Where users are instructed to remove pages they may like to consider the need to retain such pages for their own use.
7. The last 2 supplements have amended the following volumes:

Supplement No. 94 [March 2011] Contents, 1, 2, 3, 4, 5, 6, 8, 11, 12 and 13.

Supplement No. 93 [December 2010] Contents, 1, 2, 3, 4, 5, 6, 8, 11, 12 and 13.

8. While every effort is made to ensure the accuracy of this work, the DMA Customer Support Services - Publications team would be happy to hear from anyone who spots errors. Please contact:

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9. Starting in Supplement 76 the triangles ►◄ signifying additions, deletions or amendments to Statutory Instruments will be numbered to aid reference. Numbering will start at 1 on each page however, only those pages being updated will be affected.

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Insert**Part 1**

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Part 2

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2010 No. 2835**SOCIAL SECURITY****The Housing Benefit (Amendment)
Regulations 2010***Made - - - - 24th November 2010**Laid before Parliament 30th November 2010**Coming into force - 1st April 2011*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d), 130A(2) to (5), 137(1) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(2A) to (2C), 189(1) and (4) and 191 of the Social Security Administration Act 1992(b).

In accordance with section 172(1) of the Social Security Administration Act 1992, the Secretary of State has referred these Regulations to the Social Security Advisory Committee.

In accordance with section 176(1) of that Act, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

Citation and commencement

1. These Regulations may be cited as the Housing Benefit (Amendment) Regulations 2010 and come into force on 1st April 2011.

[Regulation 2 amends regulations 2, 12, 13D, 14, 96, 114A, Schedule 2 and 10 of S.I.2006/213.]

[Regulation 3 amends regulations 2, 12, 13D, 14, 77, 95A, Schedule 2 and 9 of S.I.2006/214.]

Signed by authority of the Secretary of State for Work and Pensions.

24th November 2010

Freud
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) 1992 c. 4. Section 130A was inserted by section 30 of the Welfare Reform Act 2007 (c. 5). Section 137(1) is an interpretation provision and is cited for the meaning of the word “prescribed”.

(b) 1992 c. 5. Section 5(2A) to (2C) were inserted by s. 35(2) of the Welfare Reform Act 2007. Section 189(1) and (4) were amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109. Section 191, which was amended by Schedule 5, paragraph 10 of the Welfare Reform Act 2007, is an interpretation provision and is cited for the meaning of the word “prescribe”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 of these Regulations amends the Housing Benefit Regulations 2006. Regulation 3 makes equivalent amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Paragraph (6) of regulation 2 amends regulation 13D which provides for the calculation of a maximum rent in cases where housing benefit is calculated by reference to a local housing allowance (LHA). The amendment does three things.

First, it reduces the maximum size dwelling for which the LHA is calculated from five to four bedrooms, and removes provisions that allowed a local authority to request a local housing allowance determination for dwellings larger than the maximum.

Secondly, it requires account to be taken of an additional bedroom for a non-resident carer in any case where the claimant or claimant's partner is a person who requires overnight care. Paragraph (2) of regulation 2 inserts a definition of "person who requires overnight care", and also in the Housing Benefit Regulations 2006 adjusts the definition of "young individual" to exclude such a person. Paragraphs (7), (9) and (10) make consequential amendments.

Finally, it removes the provision that allows claimants to receive up to £15 more than their actual rent. Paragraph (11) makes an equivalent amendment to regulation 12I, which is a transitional provision applying to some claimants in former pathfinder authorities.

Paragraph (5) makes provision for transitional protection for up to 9 months where the local authority determines a new maximum rent (LHA) because it is the anniversary of the last determination or there is a new applicable LHA because the claimant has become entitled to a larger category of dwelling.

Paragraph (8) extends the circumstances in which payment of Housing Benefit may be made directly to the landlord in cases where a maximum rent (LHA) has been determined.

The Report of the Social Security Advisory Committee dated 13th October 2010 on the Secretary of State's proposal to make these Regulations, together with a statement showing the extent to which these Regulations give effect to the recommendations of the Committee and, in so far as they do not give effect to them, the reasons why not, are contained in an Act Paper published by The Stationery Office Ltd.

An assessment of the impact of these Regulations has been made. Copies of this impact assessment are available in the libraries of both Houses of Parliament, and may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 6B Caxton House, Tothill Street, London SW1H 9NA, or from the DWP website: <http://www.dwp.gov.uk/resourcecentre/ria.asp>.

allowance) on a loan which qualifies under paragraph 14 or 15 of that Schedule, but less any amount deducted under paragraph 17 of that Schedule (non-dependant deductions), ¹▶²◀

- (c) Schedule II to the State Pension Credit Regulations in accordance with paragraph 7 of that Schedule (housing costs to be met in state pension credit) on a loan which qualified under paragraph 11 or 12 of that Schedule, but less any amount deducted under paragraph 14 of that Schedule (non-dependant deductions), ◀²▶²or
- (d) Schedule 6 to the Employment and Support Allowance Regulations in accordance with paragraphs 8 to 11 of that Schedule (housing costs to be met in employment and support allowance) on a loan which qualifies under paragraph 16 or 17 of that Schedule, but less any amount deducted under paragraph 19 of that Schedule (non-dependant deductions), ◀

as the case may be. ◀

“personal allowance for a single claimant aged not less than 25 years” means the amount specified ³▶ in connection with income support and state pension credit ◀ in ⁴▶ paragraph 1(1)(e) ◀ of column 2 of Schedule 2 to the Income Support Regulations ⁵▶ or, ³▶ in connection with jobseekers allowance ◀, paragraph 1(1)(e) of Schedule 1 to the Jobseeker’s Allowance Regulations ◀ ⁶▶ or, in connection with employment and support allowance, paragraph 1(1)(b) of Schedule 4 to the Employment and Support Allowance Regulations ◀;

▶⁷◀

“rent” has the meaning assigned to it in the Housing Benefit Regulations and, for the purposes of this Schedule—

- (a) includes any water charges which are paid with or as part of the rent;
- (b) where in a particular case a claimant’s rent includes elements which would not otherwise fall to be treated as rent, references to rent shall include those elements; and

(c) references to “rent” include references to part only of the rent; and

▶⁸◀ “specified benefit” means—

- ▶⁹(a) income support or, where in respect of any period it is paid together with any incapacity benefit or severe disablement allowance—
 - (i) in a combined payment;
 - (ii) in part to the beneficiary and in part to another person in accordance with regulation 34; or
 - (iii) by means of two or more instruments of payment, income support and incapacity benefit or severe disablement allowance if the income support alone is insufficient for the purposes of this Schedule; ◀
- (b) ▶¹⁰◀
- ▶¹¹(c) subject to sub-paragraph (2), jobseeker’s allowance; ◀ ▶¹²◀
- ▶⁹(d) state pension credit or, where in respect of any period it is paid together with any retirement pension, incapacity benefit or severe disablement allowance—
 - (i) in a combined payment;
 - (ii) in part to the beneficiary and in part to another person in accordance with regulation 34; or
 - (iii) by means of two or more instruments of payment, state pension credit and retirement pension, incapacity benefit or severe disablement allowance if the state pension credit alone is insufficient for the purposes of this Schedule; ◀

¹Para. (c) inserted in defn. of “mortgage payment” by reg. 14(1)(a)(iii) of S.I. 2002/3019 as from 6.10.03.

²Word “or” omitted after para. (b), word “or” inserted after para. (c) and para. (d) added to defn. of “mortgage payment” by reg. 26(2)(a)(iii) of S.I. 2008/1554 as from 27.7.08.

³Words in defn. of “personal allowance ...” inserted & substituted by reg. 14(1)(a)(iv) of S.I. 2002/3019 as from 6.10.03.

⁴Words substituted in defn. of “personal allowance ...” by reg. 12(f) of S.I. 1991/2284 as from 1.11.91.

⁵Words inserted in defn. of “personal allowance” by reg. 2(26)(a)(iv) of S.I. 1996/1460 as from 7.10.96.

⁶Words added to defn. of “personal allowance for a single claimant ...” by regs. 26(2)(a)(iv) & (v) and 26(2)(b) of S.I. 2008/1554 as from 27.7.08.

⁷Defn. of “prisoner” deleted by reg. 2(7)(a)(ii) of S.I. 1989/136 as from 27.2.89.

⁸Defn. of “specified benefit” substituted by reg. 2(7) of S.I. 1996/672 as from 4.4.96.

⁹In defn. of “specified benefit” paras. (a) & (d) substituted by reg. 3 of S.I. 2005/777 as from 11.4.05.

¹⁰Para. (b) omitted in defn. of “specified benefit” by reg. 12 of S.I. 2002/2441 as from 23.10.02.

¹¹Para. (c) added to defn. of “specified benefit” by reg. 2(26)(a)(iii) of S.I. 1996/1460 as from 7.10.96.

¹²Words omitted from defn. of “specified benefit” by reg. 4(2)(a) of S.I. 2011/674 as from 11.4.11.

(a) 1995 c. 34.

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¹Para. (e) added to defn. of “specified benefit” and para. 1(3) added to Sch. 9 by regs. 26(2)(a)(iv) & (v) and 26(2)(b) of S.I. 2008/1554 as from 27.7.08.

²Defn. of “water charges” substituted by reg. 8(2) of S.I. 1992/2595 as from 16.11.92.

³Defn. of “water undertaker” added by reg. 12(g) of S.I. 1991/2284 as from 1.11.91.

⁴Para. 1(2) inserted by reg. 2(26)(b) of S.I. 1996/1460 as from 7.10.96.

¹(e) subject to sub-paragraph (3), employment and support allowance;◀

²“water charges” means charges for water or sewerage under Chapter I of Part V of the Water Industry Act 1991(a);◀

³“water undertaker” means a company which has been appointed under section 11(1) of the Water Act 1989(b) to be the water or sewerage undertaker for any area in England and Wales.◀

⁴(2) For the purposes of the definition of “specified benefit” in sub-paragraph (1), “jobseeker’s allowance” means—

- (a) income-based jobseeker’s allowance; and
- (b) in a case where, if there was no entitlement to contribution-based jobseeker’s allowance, there would be entitlement to income-based jobseeker’s allowance at the same rate, contribution-based jobseeker’s allowance.◀

¹(3) For the purposes of the definition of “specified benefit” in sub-paragraph (1) “employment and support allowance” means—

- (a) income-related employment and support allowance; and
- (b) in a case where, if there was no entitlement to a contributory employment and support allowance, there would be entitlement to income-related employment and support allowance at the same rate, contributory employment and support allowance.◀

General

2.—(1) The specified benefit may be paid direct to a third party in accordance with the following provisions of this Schedule in discharge of a liability of the beneficiary or his partner to that third party in respect of—

- (a) housing costs;
- (b) miscellaneous accommodation costs;
- ⁵(bb) hostel payments;◀
- (c) service charges for fuel, and rent not falling within head (a) above;
- (d) fuel costs; ⁶◀
- (e) water charges ⁶; and ◀
- ⁶(f) payments in place of payments of child support maintenance under section 43(1) of the Child Support Act 1991(a) and regulation 28 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(c).◀

(2) No payment to a third party may be made under this Schedule unless the amount of the beneficiary’s award of the specified benefit is not less than the total of the amount otherwise authorised to be so paid under this Schedule plus 10 pence.

(3) A payment to be made to a third party under this Schedule shall be made, at such intervals as the Secretary of State may direct, on behalf of and in discharge (in whole or in part) of the obligation of the beneficiary or, as the case may be, of his partner, in respect of which the payment is made.

Housing costs

3.—(1) Subject to ⁷sub-paragraphs (4) to (6)◀ and paragraph 8, where a beneficiary who has been awarded the specified benefit or his partner is in debt for any item of housing costs which continues to be applicable to the beneficiary in the determination

⁵Para. 2(1)(bb) inserted by reg. 13 of S.I. 1991/2284 as from 1.11.91.

⁶Word “and” deleted from para. 2(1)(d) and added to para. 2(1)(e) and para. 2(1)(f) inserted by reg. 2(a) of S.I. 1993/478 as from 1.4.93.

⁷Words in para. 3(1) substituted by reg. 5(2)(a) of S.I. 1992/1026 as from 25.5.92 (or later—see reg. 1(4) *ibid.*).

-
- (a) 1991 c. 56.
 - (b) 1989 c. 15.
 - (c) S.I. 1992/1815.

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- (a) in a case where the beneficiary is not in accommodation ¹ as specified in regulation 15(7)(d) of the State Pension Credit Regulations, an amount equal to the award of income support, jobseeker's allowance, ² guarantee credit or employment and support allowance payable to the claimant but excluding an amount, if any, which when added to any other income of the beneficiary as determined in accordance with regulation 28 of the Income Support Regulations, regulation 93 of the Jobseeker's Allowance Regulations ², regulation 90 of the Employment and Support Allowance Regulations or regulation 17 of the State Pension Credit Regulations will equal the amount prescribed in respect of personal expenses in sub-paragraph (2A); and
- (b) in any other case, the amount of the award of income support, jobseeker's allowance ², guarantee credit or employment and support allowance, excluding the amount allowed by sub-paragraph (2A) in respect of personal expenses.

¹Words omitted in 4(2)(a) by reg. 13(3)(b)(ii) of S.I. 2005/2687 as from 24.10.05.

²Words inserted in para. 4(2)(a) and words substituted in para. 4(2)(a) & 4(2)(b) by reg. 26(4)(a)(ii) and 26(4)(b)(i)-(iii) of S.I. 2008/1554 as from 27.7.08.

(2A) The amount in respect of personal expenses where a beneficiary is in accommodation referred to in paragraphs 4(1)(a) or (b) shall be—

- (a) for a single person the sum of ³£22.60; and
- (b) for a couple where both members of the couple are in such accommodation, ³£22.60 for each member;
- (c) for a member of a polygamous marriage where more than one member is in such accommodation, ³£22.60 for each member in such accommodation.

³Amounts substituted in para. 4(2A) of Sch. 9 by reg. 5 of S.I. 2011/830 as from 11.4.11.

(3) This sub-paragraph shall apply where an award is made of—

- (a) income support calculated in accordance with Part VII of the Income Support Regulations (calculation of income support for part-weeks); or
- (b) jobseeker's allowance calculated in accordance with Part XI of the Jobseeker's Allowance Regulations (part-weeks); ⁴
- (c) state pension credit for a period of less than a week calculated under regulation 13A of the State Pension Credit Regulations (a) (part-weeks), or a part week payment of state pension credit calculated otherwise ⁴; or
- (d) employment and support allowance for a period of less than a week calculated in accordance with Part 14 of the Employment and Support Allowance Regulations (periods of less than a week).

⁴Word "or" omitted after para. 4(3)(b) and para. 4(3)(d) added by reg. 26(4)(c) of S.I. 2008/1554 as from 27.7.08.

(3A) Where sub-paragraph (3) applies then the amount of any payment to a third party determined under sub-paragraph (1) shall be an amount calculated in accordance with sub-paragraph (2)(a) or (b) as appropriate except that in respect of—

- (a) the income of the beneficiary, if any; and
- (b) the amount allowed for personal expenses by sub-paragraph (2A) above,

the amount shall be the amount used in the calculation under the provisions listed in sub-paragraph (3)(a), (b) or (c), divided by 7 and multiplied by the number of days in the part-week and no payment shall be made to a third party where the Secretary of State certifies it would be impracticable to do so in that particular case.

⁵(4) Where the amount calculated under sub-paragraphs ⁶(2) or (3A) is such that paragraph 2(2) would operate to prevent any payment under this paragraph being made the amount shall be adjusted so that 10 pence of the award is payable to the beneficiary.

⁵Para. 4(4) added by reg. 2(7)(b)(iii) of S.I. 1989/136 as from 27.2.89.

⁶Words substituted in para. 4(4) by reg. 2(2)(f) of S.I. 2003/2325 as from 6.10.03.

⁷Para. 4A inserted by reg. 15 of S.I. 1991/2284 as from 1.11.91.

⁸Words substituted in paras. 4A(1)(a) & (b) of Sch. 9 by reg. 2(8)(a) & (b) of S.I. 2009/1490 as from 13.7.09.

⁷Hostel payments

4A.—(1) This paragraph applies to a beneficiary if—

- (a) ⁸the beneficiary has been awarded specified benefit; and
- ⁸(b) either the beneficiary or the beneficiary's partner—
- (i) is resident in a hostel and has claimed housing benefit in the form of a rent rebate or rent allowance; or

(a) Regulation 13A was inserted by regulation 2 of S.I. 2002/3019.

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(ii) is resident in approved premises under section 13 of the Offender Management Act 2007; and◀

¹Para. 4A(1)(c) omitted & words substituted in sub-para. (d) by reg. 2(8)(c) & (d) of S.I. 2009/1490 as from 13.7.09.

(c) ¹◀

(d) the charge for ¹the hostel or approved premises, as the case may be,◀ includes a payment, whether direct or indirect, for one or more of the following services—

- (i) water;
- (ii) a service charge for fuel;
- (iii) meals;
- (iv) laundry;
- (v) cleaning (other than communal areas).

²Words in para. 4A(2) deleted by reg. 8(4)(a) of S.I. 1992/2595 as from 16.11.92.

³Words substituted in para. 4A(2) & (3) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(2) Subject to sub-paragraph (3) below, where a beneficiary ²◀ has been awarded specified benefit the ³Secretary of State◀ may determine that an amount of specified benefit shall be paid to the person or body to whom the charges referred to in sub-paragraph (1)(d) above are or would be payable.

(3) The amount of any payment to a third party under this paragraph shall be either—

- (a) the aggregate of the amounts determined by a housing authority in accordance with the provisions specified in sub-paragraph (4); or
- (b) if no amount has been determined under paragraph (a) of this sub-paragraph, an amount which the ³Secretary of State◀ estimates to be the amount which is likely to be so determined.

⁴Para. 4A(4) substituted & (5) omitted by para. 2 of Sch. 2 to S.I. 2006/217 as from 6.3.06.

⁴(4) The provisions referred to in sub-paragraph (3)(a) above are ⁵regulation 12B(5)◀ of, and paragraphs 1(a)(ii) and (iv), 2, 3, 4 and either 6(1)(b) or 6(2) or 6(3) or 6(4) of Schedule 1 to, the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations.◀

⁵Words in para. 4A(4) substituted by reg. 2(a) of S.I. 2007/2870 as from 7.4.08.

⁶Para. 4A(6) substituted by reg. 2(26)(e) of S.I. 1996/1460 as from 7.10.96.

⁷Word “or” omitted after para. 4A(6)(a), para. 4A(6)(c) inserted and words inserted in para. 4A(6) by reg. 26(5)(a) & (b) of S.I. 2008/1554 as from 27.7.08.

(5) ⁴◀

⁶(6) Where—

- (a) an award of income support is calculated in accordance with regulation 73(1) of the Income Support Regulations (calculation of income support for part-weeks); ⁷◀
- (b) an award of jobseeker’s allowance is calculated in accordance with regulation 150(1) of the Jobseeker’s Allowance Regulations (amount of a jobseeker’s allowance payable); ⁷or
- (c) an award of employment and support allowance is calculated in accordance with regulation 165 of the Employment and Support Allowance Regulations (entitlement of less than a week etc.),◀

the amount of any payment of income support or, as the case may be, jobseeker’s allowance ⁷or employment and support allowance◀ payable to a third party determined under sub-paragraph (2) above shall be an amount calculated in accordance with sub-paragraph (3)(a) or (b) above divided by 7 and multiplied by the number of days in the part-week, and no payment shall be made to a third party under this sub-paragraph where the Secretary of State certifies that it would be impracticable to do so in that particular case.◀◀

Service charges for fuel, and rent not falling within paragraph 2(1)(a)

5.—(1) Subject to paragraph 8, this paragraph applies to a beneficiary if—

- (a) he has been awarded the specified benefit; and
- (b) he or his partner is entitled to housing benefit in the form of a rent rebate or rent allowance ⁸or is resident in approved premises under section 13 of the Offender Management Act 2007(a)◀; and
- (c) ⁹unless sub-paragraph (1A) applies,◀ he or his partner has arrears of rent which equal or exceed four times the full weekly rent payable and—

⁸Words inserted in para. 5(1)(b) by reg. 3(7)(a) of S.I. 2010/510 as from 6.4.10.

⁹Words in para. 5(1)(c) inserted by reg. 3(2)(a)(i) of S.I. 2008/698 as from 14.4.08.

(a) 2007 c. 21.

- (i) there are arrears of rent in respect of at least 8 weeks and the landlord has requested the Secretary of State to make payments in accordance with this paragraph; or
- (ii) there are arrears of rent in respect of less than 8 weeks and in the opinion of the ¹Secretary of State◀ it is in the overriding interests of the family that payments shall be made in accordance with this paragraph.

²(1A) This sub-paragraph applies where the rent includes charges for services included under paragraph 4A(1)(d) and the arrears for these services exceed £100.00◀

³(1B) For the purposes of sub-paragraphs (1) and (1A), references to “rent” include charges incurred in respect of accommodation in approved premises under section 13 of the Offender Management Act 2007.◀

⁴(2) For the purposes of sub-paragraph (1) arrears of rent do not include any amount which falls to be deducted under regulation 74 of the Housing Benefit Regulations(a) (non-dependant deductions) or, as the case may be, regulation 55 of the Housing Benefit (State Pension Credit) Regulations(b) (non-dependant deductions) when assessing a person’s housing benefit.◀

(3) ³The◀ ¹Secretary of State◀ shall determine that a weekly amount of the specified benefit awarded to the beneficiary shall be paid to his or his partner’s landlord if—

- (a) he or his partner is entitled to housing benefit and in calculating that benefit a deduction is made under ⁵regulation 12B(2)◀ of the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations◀ in respect of either or both of water charges or service charges for fuel; and
- (b) the amount of the beneficiary’s award is not less than the amount of the deduction,

and the amount to be so paid shall be equal to the amount of the deduction.

(4) ⁵◀

⁷(5) A determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraphs (3) and (6) exceeds ⁸a sum calculated in accordance with paragraph 8(4);◀

(5A) ⁸◀

(6) In a case to which sub-paragraph (1) ⁹or (1A)◀ applies the ¹Secretary of State◀ may determine that a weekly amount of the special benefit awarded to that beneficiary equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 ¹⁰◀ shall be paid to his landlord ³, or the person or body to whom charges are payable in respect of the residence of the beneficiary or the beneficiary’s partner in approved premises under section 13 of the Offender Management Act 2007,◀ until the debt is discharged.

¹¹(7) Immediately after the discharge of any arrears of rent to which sub-paragraph (1) ⁸or (1A)◀ applies and in respect of which a determination has been made under sub-paragraph (6) the ¹Secretary of State◀ may, if satisfied that it would be in the interests of the family to do so, direct that an amount, equal to the amount by which the eligible rent is to be reduced by virtue of ¹² ¹³regulation 12B(2)◀ of the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations◀ in respect of charges for water or service charges for fuel or both, shall be deductible.◀

¹Words substituted in para. 5(1)(c)(ii), 5(3), (6), (7) and para. 6(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

²Words inserted sub-para. 5(1A) inserted by reg. 3(2)(a)(ii) of S.I. 2008/698 as from 14.4.08.

³Para. 5(1B) inserted, words in para. (3) substituted and words added to para. (6) by reg. 3(7)(b)-(d) of S.I. 2010/510 as from 6.4.10.

⁴Para. 5(2) substituted by reg. 4(2)(b) of S.I. 2011/674 as from 11.4.11.

⁵Words substituted in para. 5(3)(a) and (4) omitted by para. 2 of Sch. 2 to S.I. 2006/217 as from 6.3.06.

⁶Words substituted in para. 5(3)(a) by reg. 2(b) of S.I. 2007/2870 as from 7.4.08.

⁷Para. 5(5) substituted by reg. 2(26)(f) of S.I. 1996/1460 as from 7.10.96.

⁸Words in para. 5(5) substituted & para. (5A) omitted by reg. 2(5)(a)(i) & (ii) of S.I. 2006/2377 as from 2.10.06.

⁹Words added to para. 5(6) & (7) by reg. 3(2)(a)(iii) & (iv) of S.I. 2008/698 as from 14.4.08.

¹⁰Words deleted from para. 5(6) by reg. 16 of S.I. 1991/2284 as from 1.11.91.

¹¹Para. 5(7) added by reg. 8(5) of S.I. 1992/2595 as from 16.11.92. Under reg. 1(2) *ibid.*, “Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987.

¹²Words substituted in para. 5(7) by para. 2 of Sch. 2 to S.I. 2006/217 as from 6.3.07.

¹³Words in para. 5(7) substituted by reg. 2(b) of S.I. 2007/2870 as from 7.4.08.

(a) S.I. 2006/213. Regulation 74 was substituted by regulation 14 of S.I. 2007/2868.

(b) S.I. 2006/214. Regulation 55 was substituted by regulation 14 of S.I. 2007/2869.

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Fuel costs

¹Words in para. 6(1) substituted by reg. 14(1)(d)(i) of S.I. 2002/3019 as from 6.10.03.

²Words in para. 6(1) substituted by reg. 7(2) of S.I. 1994/2319 as from 3.10.94.

³Words substituted in para. 6(1) by para. 12a of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

6.—(1) ¹Subject to sub-paragraph (6) and (6A)◀ and paragraph 8, where a beneficiary who has been awarded the special benefit or his partner is in debt for any item of mains gas or mains electricity ²including any charges for the reconnection of gas or disconnection or reconnection of electricity◀ (“fuel item”) to an amount not less than the rate of personal allowance for a single claimant aged not less than 25 and continues to require that fuel, the ³Secretary of State◀, if in its opinion it would be in the interests of the family to do so, may determine that the amount of the award of the specified benefit (“the amount deductible”) calculated in accordance with the following paragraphs shall be paid to the person or body to whom payment is due in accordance with paragraph 2(3).

(2) The amount deductible shall, in respect of any fuel item, be such weekly aggregate of the following as is appropriate:—

⁴Para. 6(2)(a) substituted & 6(3) deleted by reg. 17 of S.I. 1991/2284 as from 1.11.91.

⁴(a) in respect of each debt to which sub-paragraph (1) applies (“the original debt”), a weekly amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 for such period as is necessary to discharge the original debt, but the aggregate of the amounts, calculated under this paragraph shall not exceed twice 5 per cent. of the personal allowance for a single claimant aged not less than 25;◀

(b) except where current consumption is paid for by other means (for example pre-payment meter), an amount equal to the estimated average weekly cost necessary to meet the continuing needs for that fuel item, varied, when appropriate, in accordance with sub-paragraph (4)(a).

(3) ⁴◀

(4) Where an amount is being paid direct to a person or body on behalf of the beneficiary or his partner in accordance with a determination under sub-paragraph (1) and ⁵a decision which embodies that determination falls to be superseded◀—

⁵Words substituted in para. 6(4) by para. 16(b) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

(a) where since the date of that determination the average weekly cost estimated for the purpose of sub-paragraph (2)(b) has either exceeded or has proved insufficient to meet the actual cost of continuing consumption so that in respect of the continuing needs for that fuel item the beneficiary or his partner is in credit or, as the case may be, a further debt has accrued, the ⁶Secretary of State◀ may determine that the weekly amount calculated under that paragraph shall, for a period of 26 weeks ⁷or such longer period as may be reasonable in the circumstances of the case◀, be adjusted so as to take account of that credit or further debt;

⁶Words substituted in para. 6(4)(a) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

⁷Words in para. 6(4)(a) of Sch. 9 inserted by reg. 8(6) of S.I. 1992/2595 as from 16.11.92.

¹SCHEDULE 9A ²Regulations 34A and 34B◀

DEDUCTIONS OF MORTGAGE INTEREST FROM BENEFIT AND PAYMENT TO QUALIFYING LENDERS

Interpretation**1. In this Schedule—**³◀

“Income Support Regulations” means the Income Support (General) Regulations 1987(a);

“relevant benefits” means—

- ⁵(a) income support, or income support and any incapacity benefit or severe disablement allowance where—
- (i) either benefit is paid with income support in a combined payment in respect of any period; and
- (ii) the income support alone is insufficient for the purpose of this Schedule;◀
- (b) ⁶◀◀
- ⁷(c) income-based jobseeker’s allowance ⁸◀ ⁹◀
- ¹⁰(ca) contribution-based jobseeker’s allowance where—
- (i) both income-based jobseeker’s allowance and contribution-based jobseeker’s allowance are in payment, and
- (ii) the income-based jobseeker’s allowance alone is insufficient for the purposes of this schedule;◀
- ⁵(d) state pension credit, or state pension credit and any retirement pension, incapacity benefit or severe disablement allowance where—
- (i) one of those benefit is paid with state pension credit in a combined payment in respect of any period; and
- (ii) the state pension credit alone is insufficient for the purpose of this Schedule;◀ ⁹and
- (e) income-related employment and support allowance;◀
- ¹⁰(f) contributory employment and support allowance where—
- (i) both income-related employment and support allowance and contributory employment and support allowance are in payment, and
- (ii) the income-related employment and support allowance alone is insufficient for the purposes of this schedule;◀

“specified part” shall be construed in accordance with paragraph 3.

¹¹Specified circumstances ²for the purposes of regulation 34A◀**2. The circumstances referred to in regulation 34A are that—**

- ¹²(a) ¹³the amount to be met under—
- (i) Schedule 3 to the Income Support Regulations; or
- (ii) Schedule 2 to the Jobseeker’s Allowance Regulations; or
- (iii) Schedule II to the State Pension Credit Regulations,◀ ⁹or
- (iv) Schedule 6 to the Employment and Support Allowance Regulations,◀

¹Sch. 9A inserted by reg. 6 of S.I. 1992/1026 as from 29.4.92 (paras. 1 and 9) and as from 25.5.92 (all other paras.).

²Words substituted in heading for Sch. 9A & words inserted in heading for para. 2 by reg. 5(5)(a)-(b) of S.I. 2002/3197 as from 7.4.03.

³Defns. in para. 1 deleted by reg. 7(3)(a) of S.I. 1997/827 as from 7.4.97.

⁴Defn. of “relevant benefits” substituted by reg. 2(8)(a) of S.I. 1996/672 as from 4.4.96.

⁵In defn. of “relevant benefits” paras. (a) & (d) substituted by reg. 4 of S.I. 2005/777 as from 11.4.05.

⁶Para. (b) omitted in defn. of “relevant benefits” by reg. 13 of S.I. 2002/2441 as from 23.10.02.

⁷Para. (c) inserted in defn. of “relevant benefits” by reg. 2(27)(a)(ii) of S.I. 1996/1460 as from 7.10.96.

⁸Words deleted in para. (c) of defn. of “relevant benefits” by reg. 4(3) of S.I. 2011/674 as from 11.4.11.

⁹Word omitted after para. 1(c), paras. 1(e) & 2(a)(iv) & word in para. 2(a)(iii) added by reg. 27(2)-(3) of S.I. 2008/1554 as from 27.7.08.

¹⁰Para. 1(ca) & (f) inserted in Sch. 9A by reg. 3(a)-(b) of S.I. 2010/2429 as from 1.11.10.

¹¹Para. 2 substituted by para. 6 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

¹²Para. 2(a) substituted by reg. 2(27)(b) of S.I. 1996/1460 as from 7.10.96.

¹³Words substituted in para. 2(a) by reg. 14(2)(b) of S.I. 2002/3019 as from 7.4.03.

(a) S.I. 1987/1967.

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by reference to the standard rate (whether at the full rate or a lesser rate) and, in the case of income support, to any amount payable in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations; and◄

- (b) the relevant benefits to which a relevant beneficiary is entitled are payable in respect of a period of 7 days or a multiple of such period.◄

¹Para. 2A & words in para. 3(1A) inserted by reg. 5(5)(c) & (d)(i) of S.I. 2002/3197 as from 7.4.03.

¹Specified circumstances for the purposes of regulation 34B

2A.—(1) The circumstances referred to in regulation 34B are that—

- (a) the relevant beneficiary is entitled to a savings credit as construed in accordance with sections 1 and 3 of the 2002 Act and not to a guarantee credit; and
(b) sub-paragraphs (a) and (b) of paragraph 2 apply.

(2) The further circumstances referred to in that regulation are that—

- (a) the relevant beneficiary has requested the Secretary of State in writing to make such payments to the qualifying lender; or
(b) the Secretary of State has determined that it would be in the relevant beneficiary's interests, or in the interests of his family, to make such payments to the qualifying lender.

(3) In making the determination referred to in sub-paragraph (2)(b), the Secretary of State shall have regard to whether or not the relevant beneficiary is in arrears with his payments to the qualifying lender.

(4) For the purposes of sub-paragraph (2)(b), "a family" comprises the relevant beneficiary, his partner, any additional partner to whom section 12(1)(c) of the 2002 Act applies and any person who has not attained the age of ²20◄, is treated as a child for the purposes of section 142 of the Contributions and Benefits Act and lives with the relevant beneficiary or the relevant beneficiary's partner.◄

²Word substituted in para. 2A(4) by reg. 2(2) of S.I. 2007/3183 as from 17.12.07.

Specified part of relevant benefit

3.— ³(1) Subject to the following provisions of this paragraph, the part of any relevant benefits which, as determined by the ⁴Secretary of State in accordance with regulation 34A, shall be paid◄ directly to the qualifying lender ("the specified part") is ⁵ in the case of income support,◄ a sum equal to the amount of mortgage interest to be met in accordance with paragraphs 6 and 8 to 10 of Schedule 3 to the Income Support Regulations (housing costs) together with an amount (if any) determined under paragraph 7 of that Schedule (transitional protection) ⁵or, in the case of jobseeker's allowance, equal to the amount of mortgage interest to be met in accordance with paragraphs 6 to 9 of Schedule 2 to the Jobseeker's Allowance Regulations◄ ⁶or, in the case of employment and support allowance, a sum equal to the amount of mortgage interest to be met in accordance with paragraphs 8 to 11 of Schedule 6 to the Employment and Support Allowance Regulations◄.◄

³Para. 3(1) substituted para. 3(1) and (2) by Sch. 2 para. 7(a) to S.I. 1995/1613 as from 2.10.95.

⁴Words substituted in para. 3(1) by para. 17 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

⁵Words in para. 3(1) inserted by reg. 2(27)(c) of S.I. 1996/1460 as from 7.10.96.

⁶Words inserted in para. 3(1) & substituted in para. 3(3) by reg. 27(4)(a) & (b)(i) of S.I. 2008/1554 as from 27.7.08.

⁷Para. 3(1A) & words in para. 3(3) inserted by reg. 14(2)(c) of S.I. 2002/3019 as from 6.10.03.

⁷(1A) Subject to the following provisions of this paragraph, the part of state pension credit which, as determined by the Secretary of State in accordance with regulation 34A, shall be paid directly to the qualifying lender ¹or, in accordance with regulation 34B, may be paid directly to the qualifying lender◄, is a sum equal to the amount of mortgage interest to be met under paragraph 7 of Schedule II to the State Pension Credit Regulations.◄

(There is no longer a sub-paragraph (2) in para. 3.)

(3) Where, in determining a relevant beneficiary's applicable amount for the purposes of income support ⁶income-based jobseeker's allowance or income-related employment and support allowance◄ ⁷or a relevant beneficiary's appropriate minimum guarantee in state pension credit◄—

- (a) a sum in respect of housing costs is brought into account in addition to a sum in respect of mortgage interest; and

Schedule II to the State Pension Credit Regulations or paragraphs 6 to 9 of Schedule 2 to the Jobseeker's Allowance Regulations¹ or paragraphs 8 to 11 of Schedule 6 to the Employment and Support allowance Regulations²; and

C = the sum which is not allowed or falls to be deducted in accordance with paragraph 18 of Schedule 3 to the Income Support Regulations² or, as the case may be³ paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker's Allowance Regulations¹ or paragraph 19 of Schedule 6 to the Employment and Support Allowance Regulations⁴.

(4) Except where the relevant benefit is state pension credit, where a payment is being made under a policy of insurance taken out by a beneficiary to insure against the risk of his being unable to maintain repayments of mortgage interest to a qualifying lender, then the amount of any relevant benefits payable to that lender shall be reduced by a sum equivalent to so much of the amount payable under the policy of insurance as represents payments in respect of mortgage interest.

(5)

(6)

(7)

(8) Where the amount of any relevant benefits to which a relevant beneficiary is entitled is less than the sum which would, but for this sub-paragraph, have been the specified part, then the specified part shall be the amount of any relevant benefits to which the relevant beneficiary is entitled less 10p.

(9) In the case of a person to whom regulation 6(5) of the Income Support Regulations applies, no part of any relevant benefit shall be paid directly by the Secretary of State to a qualifying lender.

(10) In sub-paragraph (1), the relevant benefits do not include in the case of state pension credit but not in a case to which sub-paragraph 11 applies, so much of any additional amount which is applicable in the claimant's case under Schedule II to the State Pension Credit Regulations (housing costs) in respect of a period before the decision awarding state pension credit was made.

(11) This sub-paragraph applies where the last day on which either the claimant or his partner were entitled to income support or to an income-based jobseeker's allowance was no more than twelve weeks before—

- (a) except where paragraph (b) applies, the first day of entitlement to state pension credit; or
- (b) where the claim for state pension credit was treated as made on a day earlier than the day on which it was actually made ("the actual date"), the day which would have been the first day of entitlement to state pension credit had the claim been treated as made on the actual date.

Direct payment: more than one loan

4.—(1) This paragraph applies where the borrower is liable to pay mortgage interest in respect of two or more different loans.

(2) Subject to the following provisions of this paragraph, the Secretary of State shall pay to the qualifying lender or, if there is more than one qualifying lender, to each qualifying lender—

¹Words added in defns. of B and C in para. 3(3) by reg. 27(4)(b)(iv)-(v) of S.I. 2008/1554 as from 27.7.08.

²Words in defn. of C inserted & substituted by reg. 2(27)(c) of S.I. 1996/1460 as from 7.10.96.

³Words substituted & inserted in defn. of C by reg. 14(2)(c) of S.I. 2002/3019 as from 6.10.03.

⁴Words inserted in para. 3(4) & para. 3(10) inserted by reg. 14(2)(c)(iii) & (iv) of S.I. 2002/3019 as from 6.10.03.

⁵Sub-paras. (5) and (6) omitted by reg. 7(3)(b) of S.I. 1997/827 as from 7.4.97.

⁶Para. 3(7) deleted by para. 7(d) of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

⁷Para. 3(9) added by reg. 11(3) of S.I. 2001/488 as from 9.4.01.

⁸Words in sub-para. (10) inserted & sub-para. (11) inserted by reg. 5(5)(d)(ii) & (iii) of S.I. 2002/3197 as from 6.10.03.

⁹Para. 4(2) substituted by para. 8 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

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¹Words inserted in para. 4(2)(a) by reg. 2(27)(d) of S.I. 1996/1460 as from 7.10.96.

²Words inserted in para. 4(2)(a) by reg. 14(2)(d) of S.I. 2002/3019 as from 6.10.03.

³Words inserted in para. 4(2)(a) by reg. 27(5) of S.I. 2008/1554 as from 27.7.08.

⁴Word in para. 4(2)(b) & para. (c) deleted by reg. 7(3)(c) of S.I. 1997/827 as from 7.4.97.

- (a) a sum equal to the mortgage interest determined by reference to paragraph 12 of Schedule 3 to the Income Support Regulations ¹or, as the case may be ²paragraph 9 of Schedule II to the State Pension Credit Regulations or³ paragraph 11 of Schedule 2 to the Jobseeker's Allowance Regulations ³or paragraph 13 of Schedule 6 to the employment and Support Allowance Regulations⁴ (standard rate) in respect of each loan made by that lender;
- (b) any amount payable in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations (transitional protection) attributable to the particular loan; ⁴
- (c) ⁴

(3) If, by virtue of deductions made under either paragraph 3(2) or 3(3), the specified part is less than the amount payable by the borrower in respect of mortgage interest, then the sum payable under sub-paragraph (2)(a) shall be minus such proportion of the sum subtracted under those sub-paragraphs as is attributable to the particular loan.

(4) Paragraph 3(4) shall apply to reduce the amount payable to a qualifying lender mentioned in sub-paragraph (2) above as it applies to reduce the amount of any relevant benefits payable to a qualifying lender under paragraph 3.

(5) Where the specified part is the part referred to in paragraph 3(8), the Secretary of State shall pay the specified part directly to the qualifying lenders to whom mortgage interest is payable by the borrower in order of the priority of mortgages or (in Scotland) in accordance with the preference in ranking of heritable securities.

⁵Para. 4A inserted by reg. 2(3) of S.I. 2010/796 as from 8.4.10.

⁵Application of payment where it exceeds borrower's actual mortgage interest

4A.—(1) Subject to sub-paragraph (2), insofar as the sum paid to a qualifying lender under this Schedule in respect of a particular loan exceeds the borrower's liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

- (a) first, towards the discharge of any liability for arrears of mortgage interest in respect of that loan;
- (b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of that loan.

(2) Where the borrower is liable to pay mortgage interest to the same qualifying lender in respect of two or more different loans, insofar as the sum paid to that lender under this Schedule in respect of one of those loans ("loan A") exceeds the borrower's liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

- (a) first, towards the discharge of any liability for arrears of mortgage interest payable in respect of loan A;
- (b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of loan A or (insofar as that liability is not already discharged by the application of any other sum paid to the qualifying lender under this Schedule) any of the other loans.

⁶Para. 5 deleted by reg. 2(8)(b) of S.I. 1996/672 as from 4.4.96.

5. ⁶

Time and manner of payments

6. Payments to qualifying lenders under regulation 34A ⁷or 34B⁴ and this schedule shall be made in arrears at intervals of 4 weeks.

⁷Words inserted in paras. 6 & 7 by reg. 5(5)(e) of S.I. 2002/3197 as from 6.10.03.

Fees payable by qualifying lenders

7. For the purposes of defraying the expenses of the Secretary of State in administering the making of payments under regulation 34A ⁷or 34B⁴ and this schedule a qualifying lender shall pay to the Secretary of State a fee of ⁸£0.43⁴ in respect of each payment made under regulation 34A and this Schedule.

⁸Amount in para. 7 substituted by reg. 2 of S.I. 2011/679 as from 11.4.11.

“dwelling” has the same meaning in section 3 or 72 of the 1992 Act;

“earnings” has the meaning prescribed in regulation 25 or, as the case may be, 27;

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

▶¹“electronic communication” has the same meaning as in section 15(1) of the 2000 Act;◀

“employed earner” is to be construed in accordance with section 2(1)(a) of the Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

▶²“Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;◀

▶³“Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) Regulations 2010;◀

▶⁴“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment; “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);◀

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(a) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State for Work and Pensions;

▶⁵“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;◀

▶⁶“extended payment” means a payment of council tax benefit payable pursuant to regulation 60;

“extended payment period” means the period for which an extended payment is payable in accordance with regulation 60A or 61A;

“extended payment (qualifying contributory benefits)” means a payment of council tax benefit payable pursuant to regulation 61;◀

“family” has the meaning assigned to it by section 137(1) of the Act;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

▶⁷◀

“a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(b);

“housing benefit” means housing benefit under Part 7 of the Act;

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(c);

“Immigration and Asylum Act” means the Immigration and Asylum Act 1999(d);

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the same meaning as they have in the Jobseekers Act by virtue of section 1(4) of that Act;

¹Defn. of “electronic communication” inserted by art. 4(2)(b) of S.I. 2006/2968 as from 20.12.06.

²Defns. of “employment and support allowance regulations” & “income related employment and support allowance” inserted by reg. 43(2) (d) of S.I. 2008/1082 as from 27.10.08.

³Defn. of “Employment and Support Allowance (Existing Awards) Regulations” inserted in reg. 2(1) by Sch. 5, para. 69(2)(b) of S.I. 2010/1907 as from 1.10.10.

⁴Defn. of “the Employment, Skills and Enterprise Scheme” inserted by reg. 11(2) of S.I. 2011/917 as from 20.5.11.

⁵Defn. of “enactment” inserted by reg. 8(2) of S.I. 2009/2655 as from 2.11.09.

⁶Defn. of “extended payment” substituted, “extended payment period” inserted and “extended payment (qualifying contributory benefits)” replaces “extended payment (severe disablement allowance and incapacity benefit)” by regs. 9(a) & (b) of S.I. 2008/959 as from 6.10.08.

⁷Defn. of “gateway office” omitted by reg. 4(2) of S.I. 2008/2299 as from 1.10.08.

(a) 1999 c. 30.

(b) S.I. 2005/439.

(c) S.I. 2006/213.

(d) 1999 c. 33.

Reg. 2

¹Defns. of “employment and support allowance regulations” & “income related employment and support allowance” inserted by reg. 43(2) (e) of S.I. 2008/1082 as from 27.10.08.

²Defn. of “independent hospital” substituted by art. 22 of S.I. 2010/1881 as from 1.10.10.

³Defn. of “the Independent Living Fund” omitted by reg. 8(2)(b) of S.I. 2008/2767 as from 17.11.08.

⁴Defn. of “the Independent Living Fund 2006” inserted by reg. 10(2)(a) of S.I. 2007/2538 as from 1.10.07.

⁵Defn. of “the Independent Living Funds”, “the Independent Living (Extension) Fund” & “the Independent Living (1993) Fund” omitted by reg. 8(2)(c)-(e) of S.I. 2008/2767 as from 17.11.08.

⁶Defn. of “Intensive Activity Period for 50 plus” omitted by reg. 7(2) of S.I. 2008/698 as from 14.4.08.

⁷Defns. of “limited capability for work”, “limited capability for work-related activity” & “main phase employment and support allowance” inserted by reg. 36(a) & (b) of S.I. 2008/2428 as from 27.10.08.

⁸Defn. of “lower rate” revoked by the Sch. to S.I. 2007/2618 as from 1.10.07.

⁹Words inserted in defn. of “main phase employment & support allowance” by reg. 8(2)(b) of S.I. 2009/583 as from 1.4.09.

¹“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act; ◀

“Income Support Regulations” means the Income Support (General) Regulations 1987(a);

²“independent hospital”–

(a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;

(b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and

(c) in Scotland, means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001; ◀

³ ◀

⁴“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part; ◀

⁵ ◀

⁵ ◀

⁶ ◀

“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“Jobseekers Act” means the Jobseekers Act 1995(b);

“Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(c);

⁷“limited capability for work” has the meaning given in section 1(4) of the Welfare Reform Act;

“limited capability for work-related activity” has the meaning given in section 2(5) of the Welfare Reform Act; ◀

“the London Bombing Relief Charitable Fund” means the company limited by guarantee (number 5505072), and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

⁸ ◀

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No.2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

⁷“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the claimant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act ⁹except in Part 1 of Schedule 1 ◀; ◀

(a) S.I. 1987/1967.

(b) 1995 c. 18.

(c) S.I. 1996/207.

Reg. 2

¹“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment; “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work related activity for upto 30 hours per week over a period of four consecutive weeks with a view to assisting claimants to improve their prospect of obtaining employment; ◀

¹Defn. of “the Mandatory Work Activity Scheme” inserted by reg. 11(2) of S.I. 2011/688 as from 25.4.11.

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996(a);

“member of a couple” means a member of a married or unmarried couple;

²“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products; ◀

²Defn. of “MFET Limited” inserted by reg. 12(2) of S.I. 2010/641 as from 1.4.10.

“mobility supplement” means a supplement to which paragraph 9 of Schedule 4 refers;

³“mover” means a claimant who changes the dwelling in which the claimant is resident and in respect of which the claimant liable to pay council tax from a dwelling in the area of the appropriate authority to a dwelling in the area of the second authority; ◀

³Defn. of “mover” inserted by regs. 9(2)(c) of S.I. 2008/959 as from 6.10.08.

“net earnings” means such earnings as are calculated in accordance with regulation 26;

“net profit” means such profit as is calculated in accordance with regulation 28;

“the New Deal options” means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

⁴“new dwelling” means, for the purposes of the definition of “second authority” and regulations 60C, 61C, 96 and 97, the dwelling to which a claimant has moved, or is about to move, in which the claimant is or will be resident; ◀

⁴Defn. of “new dwelling” inserted by reg. 9(2)(d) of S.I. 2008/959 as from 6.10.08.

“non-dependant” has the meaning prescribed in regulation 3;

“non-dependant deduction” means a deduction that is to be made under regulation 58;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

“partner” means—

- (a) where a claimant is a member of a couple, the other member of that couple; or
- (b) where a claimant is polygamously married to two or more members of his household, any such member to whom he is married;

“paternity leave” means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996;

“payment” includes part of a payment;

“pension fund holder” means with respect to a personal pension scheme or ⁵an occupational pension scheme ◀, the trustees, managers or scheme administrators, as the case may be, of the scheme ⁵◀ concerned;

⁵Words in defn. of “pension fund holder” substituted and omitted by reg. 6(2)(a) of S.I. 2007/1749 as from 16.7.07.

“person affected” shall be construed in accordance with regulation 3 of the Decisions and Appeals Regulations;

“person on income support” means a person in receipt of income support;

⁶Defn. of “person on state pension credit” omitted by reg. 5(2) of S.I. 2008/1042 as from 19.5.08.

⁶◀

(a) 1996 c. 18.

Reg. 2

⁵Defn. of “pension pension scheme” substituted by reg. 6(2)(b) of S.I. 2007/1749 as from 16.7.07.

⁵“personal pension scheme” means–

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993;
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1998 or a substituted contract within the meaning of section 622(3) or that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 of the Finance Act 2004;
- (c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;◀

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means a marriage to which section 133(1) of the Act refers;

¹Defn. of “public authority” inserted by reg. 8(2) of S.I. 2009/2655 as from 2.11.09.

¹“public authority” includes any person certain of whose functions are functions of a public nature;◀

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act)–

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

²Defns. of “qualifying contributory benefit” & “qualifying income-related benefit” inserted by reg. 9(2)(e) of S.I. 2008/959 as from 6.10.08.

²“qualifying contributory benefit” means–

- (a) severe disablement allowance;
- (b) incapacity benefit;
- ³(c) contributory employment and support allowance;◀

³Sub-para. (c) added to defns. of “qualifying contributory benefit” & “qualifying income-related benefit” by reg. 43(2)(g) & (h) of S.I. 2008/1082 as from 27.10.08.

“qualifying income-related benefit” means–

- (a) income support;
- (b) income-based jobseeker’s allowance;◀
- ³(c) income-related employment and support allowance;◀

⁴Words inserted in defn. of “qualifying person” by reg. 10(3)(a) of S.I. 2010/641 as from 5.4.10.

“qualifying person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust ⁴, MFET Limited◀, the Skipton Fund or the London Bombings Relief Charitable Fund;

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

“relevant authority” means an authority administering council tax benefit;

“remunerative work” has the meaning prescribed in regulation 6;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit Regulations refers less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions) of those Regulations;

“resident” has the meaning it has in Part 1 or 2 of the 1992 Act;

⁵◀

⁵Defn. of “retirement annuity contract” omitted by reg. 6(2)(c) of S.I. 2007/1749 as from 16.7.07.

“second adult” has the meaning given to it in Schedule 2;

⁶“second authority” means the authority to which a mover is liable to make payments for the new dwellings;◀

⁶Defn. of “second authority” inserted by reg. 9(2)(f) of S.I. 2008/959 as from 6.10.08.

“self-employed earner” is to be construed in accordance with section 2(1)(b) of the Act;

See reg. 13(3) of S.I. 2010/1222 at page 11.7185 for detail of the modifications to the defn. of “self-employment route” in certain situations

“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in–

- (a) an employment zone programme; ¹◀
- (b) a programme provided or other arrangements made pursuant to section 2 of the 1973 Act (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(a) (functions in relation to training for employment, etc.); ¹or◀
- ¹(c) the Employment, Skills and Enterprise Scheme;◀

¹Words omitted & inserted in defn. of “self-employment route” by reg. 11(3) of S.I. 2011/917 as from 20.5.11.

²“service user group” means a group of individuals that is consulted by or on behalf of—

²Defn. of “service user group” inserted by reg. 8(2) of S.I. 2009/2655 as from 2.11.09.

- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978,
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,
- (c) a public authority in consequence of a function under section 49A of the Disability Discrimination Act 1995,
- (d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
- (e) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,
- (f) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
- (g) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
- (h) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008,
- (i) the regulator or a ³private registered provider of social housing◀ in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008, or
- (j) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

³Words substituted in reg. 2(1), defn. of “service user group” by Sch. 1, para. 62 of S.I. 2010/671 as from 1.4.10.

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;◀

“single claimant” means a claimant who neither has a partner nor is a lone parent;
 “the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions.

⁴“special account” means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;◀

⁴Defn. of “special account” inserted by reg. 10(2) of S.I. 2010/641 as from 5.4.10.

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc Act 1993(b) out of sums allocated to it for distribution under that section;

⁵◀

“State Pension Credit Act” means the State Pension Credit Act 2002(c);

⁵Defn. of “starting rate” omitted by reg. 8(2)(c) of S.I. 2009/583 as from 6.4.09.

“student” has the meaning prescribed in regulation 43;

“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

(a) 1990 c. 35.
 (b) 1993 c. 39.
 (c) 2002 c. 16.

Reg. 2

¹Defn. of “supplementary benefit” omitted by reg. 7(2) of S.I. 2008/698 as from 14.4.08.

²Words inserted in defn. of “training allowance” by reg. 8(3)(a) of S.I. 2009/583 as from 6.4.09.

³Words substituted in defn. of “training allowance” in reg. 2 by reg. 16(2) of S.I. 2010/1941 as from 1.9.10.

⁴Words substituted in defn. of “training allowance” in reg. 2 by reg. 7(2)(b) of S.I. 2008/3157 as from 5.1.09.

¹◀

“the Tax Credits Act” means the Tax Credits Act 2002(c);

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, ²Skills Development Scotland,◀ Scottish Enterprise or Highlands and Islands Enterprise, the ³Young People’s Learning Agency for England, the Chief Executive of Skills Funding◀ or ⁴Welsh Ministers◀;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, the department or approved by the department in relation to him or so provided or approved by or on behalf of the Secretary of State, ²Skills Development Scotland◀ Scottish Enterprise or Highlands and Islands Enterprise or the ⁴Welsh Ministers◀,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act^(a) or is training as a teacher;

“the Trusts” means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

¹◀

²“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003^(b);

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;◀

“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991^(c),
- (b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002^(d),

in so far as such charges are in respect of the dwelling which a person occupies as his home;

³“Welfare Reform Act” means the Welfare Reform Act 2007;◀

“Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002^(e); and

“young person” has the meaning prescribed in regulation 9(1).

See regs. 13(1) & 19(1)(a) of S.I. 2010/1222 at page 8.1701 for details of modifications to reg. 2(1) & (4)(a)-(b) in certain situations.

(2) In these Regulations, references to a claimant occupying a dwelling or premises as his home shall be construed in accordance with regulation 7 of the Housing Benefit Regulations.

(3) In these Regulations, where an amount is to be rounded to the nearest penny, a fraction of a penny shall be disregarded if it is less than half a penny and shall otherwise be treated as a whole penny.

(4) For the purpose of these Regulations, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with ⁴regulation 27A of the Jobseeker’s Allowance Regulations or◀ section 19 or 20A ⁵or regulations made under section 17A◀ of the Jobseekers Act (circumstances in which a jobseeker’s allowance is not payable); or

¹Defn. of “war widower’s pension” omitted by reg. 5(a) of S.I. 2007/1619 as from 3.7.07.

²Defn. of “war disablement pension”, “war pension”, “war widow’s pension” and “war widower’s pension” inserted in reg. 2 by reg. 7(2)(c), of S.I. 2008/3157 as from 5.1.09.

³Defn. of “Welfare Reform Act” inserted by reg. 43(2)(i) of S.I. 2008/1082 as from 27.10.08.

⁴Words inserted in reg. 2(4)(a) by reg. 4(1)(d) of S.I. 2010/509 as from 6.4.10.

⁵Words inserted in reg. 2(4)(a) by reg. 17(1)(a) & (2) of S.I. 2011/688 as from 25.4.11.

(a) 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part 1 of Schedule 7 of the Employment Act 1989 (c. 38) and by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(b) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7.).

(c) 1991 c. 56.

(d) 2002 Asp. 3.

(e) S.I. 2002/2005.

Regs. 2-3

¹Words inserted in reg. 2(4)(b) by reg. 4(1)(d) of S.I. 2010/509 as from 6.4.10.

²Words inserted in reg. 2(4)(b) by reg. 17(1)(a) & (2) of S.I. 2011/688 as from 25.4.11.

³Words omitted in reg. 2(4)(d) by reg. 10 of S.I. 2010/424 as from 2.4.10

⁴Words in reg. 2(4)(d) inserted by reg. 6(2) of S.I. 2010/1160 as from 1.4.10.

⁵Para. (4A) inserted by reg. 43(3) of S.I. 2008/1082 as from 27.10.08.

- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for ¹regulation 27A of the Jobseeker's Allowance Regulations or ²section 19 or 20A ²or regulations made under section 17A ⁴of that Act;
- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;
- (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to ³section ⁴6B, ⁴7, 8 or 9 of the Social Security Fraud Act 2001 (a) (loss of benefit provisions).

⁵(4A) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act (disqualification); or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act. ⁴

(5) For the purposes of these Regulations, two person shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(6) In these Regulations, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (b) (small amounts of state pension credit).

Definition of non-dependant

3.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant or with whom a claimant normally resides.

(2) This paragraph applies to—

- (a) any member of the claimant's family;
- (b) if the claimant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- (c) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 11 (membership of the same household);
- (d) subject to paragraph (3), any person who, with the claimant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under sections 6, 7 or 75 of the 1992 Act (persons liable to pay council tax);
- (e) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the claimant or the claimant's partner in respect of the occupation of the dwelling;
- (f) a person who lives with the claimant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the claimant or his partner for the services provided by that person.

(3) Excepting persons to whom paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following sub-paragraphs applies shall be a non-dependant—

(a) 2001 c. 11.

(b) S.I. 2002/1792.

- (c) pursuant to section 2 of the 1973 Act in respect of a person's participation—
- (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations ¹◀; ²◀
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations ²or;
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;◀

For details of the modifications of reg. 32(7), see reg. 14 of S.I. 2010/1222 page 11.7185 for when to apply in certain situations as from 22.11.10.

- ³(cb) in respect of a previous participation in the Mandatory Work Activity Scheme;◀
- (d) under an occupational pension scheme ⁴, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund◀ where—
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(a);
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

¹Words in reg. 32(7)(c) (iii) & (10)(b)(i) omitted by reg. 7(4)(a) of S.I. 2008/698 as from 14.4.08.

²Words omitted and head (v) inserted in reg. 32(7)(c) by reg. 3(2) of S.I. 2009/480 as from 5.10.09.

³Reg. 32(7)(cb) inserted by reg. 12(1)(a) & (2) of S.I. 2011/688 as from 25.4.11.

⁴Words in reg. 32(7)(d) substituted by reg. 9(2)(c) of S.I. 2006/588 as from 6.4.06.

(8) Where a claimant is in receipt of any benefit (other than council tax benefit) under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the relevant authority shall treat the claimant as possession such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the relevant authority shall select to apply in its area, to the date on which the altered rate is to take effect.

(9) Subject to paragraph (10), where—

- (a) a claimant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the relevant authority shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.

(10) Paragraph (9) shall not apply—

- (a) to a claimant who is engaged by a charitable or voluntary organisation or who is a volunteer if the relevant authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
- (b) in a case where the service is performed in connection with—
 - (i) the claimant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the claimant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations ¹◀; or
 - (ii) the claimant's or the claimant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme

(a) 1980 c. 46.

Regs. 32-35

¹Paras. (10)(c) & (10A) inserted & para. (12)(a) substituted by reg. 13(6)(a) & (b) of S.I. 2007/2618 as from 1.10.07.

¹; or

- (c) to a claimant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

(10A) In paragraph (10)(c) “work placement” means practical work experience which is not undertaken in expectation of payment. ◀

(11) Where a claimant is treated as possessing any income under any of paragraph (1) to (8), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment has actually been made and as if it were actual income which he does possess.

(12) Where a claimant is treated as possessing any earnings under paragraph (9) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 26 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the ¹starting rate ◀ or, as the case may be, the ¹starting rate ◀ and the basic rate of tax applicable to the assessment period less only the personal relief to which the claimant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the ¹starting rate ◀ of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rate basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.

²Reg. 32(13) inserted by reg. 8(4)(b) of S.I. 2009/2655 as from 2.11.09.

²(13) Paragraphs (1), (2), (6) and (9) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the claimant’s participation in a service user group. ◀

SECTION 6

*Capital***Capital limit**

33. For the purposes of section 134(1) of the Act as it applies to council tax benefit (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £16,000.

Calculation of capital

34.—(1) For the purposes of Part 7 of the Act as it applies to council tax benefit, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 36 (income treated as capital).

(2) There shall be disregarded from the calculation of a claimant’s capital under paragraph (1), any capital, where applicable, specified in Schedule 5.

Disregard of capital of child and young person

35. The capital of a child or young person who is a member of the claimant’s family shall not be treated as capital of the claimant.

Income treated as capital

36.—(1) Any bounty derived from employment to which paragraph 8 of Schedule 3 applies and paid at intervals of at least one year shall be treated as capital.

(2) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 25(1)(d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or ¹, 25 to 28, 47 or 48² of Schedule 5, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

¹Words in reg. 36(4) substituted by reg. 17(2) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under ²or by³ the Trusts, the Fund, the Eileen Trust ², MFET Limited⁴, the Independent Living ³Fund (2006)⁴ or the London Bombings Charitable Relief Fund, shall be treated as capital.

²Words in reg. 36(6) & (7) inserted & omitted by reg. 10(3)(c), (5) & (6) of S.I. 2010/641 as from 5.4.10.

(7) There shall be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account ² during the period in which that person was receiving such assistance.

³Words in reg. 36(6) substituted by reg. 8(4)(b) of S.I. 2008/2767 as from 17.11.08.

(8) Any arrears of subsistence allowance which are paid to a claimant as a lump sum shall be treated as capital.

(9) Any arrears of working tax credit or child tax credit shall be treated as capital.

⁴Calculation of capital in the United Kingdom

⁴Reg. 37 substituted by reg. 13(7) of S.I. 2007/2618 as from 1.10.07.

37. Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 per cent.; and
- (b) the amount of any encumbrance secured on it;⁴

Calculation of capital outside the United Kingdom

38. Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value.
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent. and the amount of any encumbrances secured on it.

Notional capital

39.—(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax benefit or increasing the amount of that benefit except to the extent that that capital is reduced in accordance with regulation 40 (diminishing notional capital rule).

(2) Except in the case of—

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or

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¹Words added to reg. 39(2)(d) by Sch. 2, para. 28(3) of S.I. 2006/217 as from 6.3.06.

²Words in reg. 39(2)(d), (3)(a) & (4)(c) substituted by reg. 9(3)(a)-(c) of S.I. 2006/588 as from 6.4.06.

³Words in reg. 39(2)(d) omitted by reg. 6(5) of S.I. 2007/1749 as from 16.7.07.

⁴Reg. 39(2)(e) & (ea) substitutes for (e) by reg. 8(3) of S.I. 2007/179 as from 2.4.07.

⁵Words in reg. 39(4)(a) inserted by reg. 10(3)(d) & (5)(c) of S.I. 2010/641 as from 5.4.10.

⁶Words in reg. 39(4)(a) substituted by reg. 8(4)(c) of S.I. 2008/2767 as from 17.11.08.

⁷Words in reg. 39(4)(b)(iii) omitted by reg. 7(4)(b) of S.I. 2008/698 as from 14.4.08.

⁸Words omitted and head (v) inserted in reg. 39(4) by reg. 3(2) of S.I. 2009/480 as from 5.10.09.

⁹Reg. 39(4)(bb) inserted by reg. 13(1)(a) & (2) of S.I. 2011/688 as from 25.4.11.

- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; or
- (d) a personal pension scheme ¹, occupational pension scheme², ³ or a payment made by the Board of the Pension Protection Fund⁴; or
- ⁴(e) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a); or
- (ea) any sum to which paragraph 48(a) of Schedule 5 refers; or⁴
- (f) child tax credit; or
- (g) working tax credit,

any capital which would become available to the claimant upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

(3) Any payment of capital, other than a payment of capital specified in paragraph (4), made—

- (a) to a third party in respect of a single claimant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension ², a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund⁴, be treated as possessed by that single claimant or, as the case may be, by that member;
- (b) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single claimant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that claimant or member is liable;
- (c) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Paragraph (3) shall not apply in respect of a payment of capital made—

- (a) under ⁵or by⁴ of the Trusts, the Fund, the Eileen Trust ⁵, MFET Limited⁴, the Independent Living ⁶Fund (2006)⁴, the Skipton Fund, or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations ⁷⁸
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; ⁸or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;⁴

See reg. 15(1)(a) of S.I. 2010/1222 page 11.7185 for details of the modification of this reg. in certain situations as from 22.11.10.

⁹(bb) in respect of a person's participation in the Mandatory Work Activity Scheme;⁴

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¹(bc) in respect of a claimant's participation in the Employment, Skills and Enterprise Scheme;◀

(c) under an occupational pension scheme ², in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund◀ where—

- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(a);
- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(5) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 34 (calculation of capital) be disregarded; and
- (b) he shall, subject to paragraph (6), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(6) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (5) shall be disregarded.

(7) Where a claimant is treated as possessing capital under any of paragraphs (1) to (3) the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Diminishing notional capital rule

40.—(1) Where a claimant is treated as possessing capital under regulation 39(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions,
 - shall be reduced by an amount determined under paragraph (3);
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,
 - shall be reduced by the amount determined under paragraph (4).

(2) This paragraph applies to a benefit week or part-week where the claimant satisfies the conditions that—

- (a) he is in receipt of council tax benefit; and
- (b) but for regulation 39(1), he would have received an additional amount of council tax benefit in that week.

¹Reg. 39(4)(bc) inserted by reg. 13(1)(a) & (2) of S.I. 2011/917 as from 20.4.11.

²Words in reg. 39(2)(d), (3)(a) & (4)(c) substituted by reg. 9(3)(a)-(c) of S.I. 2006/588 as from 6.4.06.

(a) 1980 c. 46.

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(3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to the aggregate of—

- (a) the additional amount to which sub-paragraph (2)(b) refers;
- (b) where the claimant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);
- (c) where the claimant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support Regulations^(a) (notional capital);¹◀
- (d) where the claimant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital)¹ and
- (e) where the claimant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of benefit week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).◀

¹Word & reg. 40(3)(c) omitted & (3)(e) inserted & words in (4)(c) deleted by reg. 53(a) & (b)(i) of S.I. 2008/1082 as from 27.10.08.

(4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to council tax benefit in the relevant week but for regulation 39(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of council tax benefit to which the claimant would have been entitled in the relevant week but for regulation 39(1); and for the purposes of this sub-paragraph is the amount in respect of a part-week, that amount shall be determined by dividing the amount of council tax benefit to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
- (b) if the claimant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,

and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number equal to that number of days in the part-week and multiplying the quotient so obtained by 7;

- (c) if the claimant would, but for regulation 51(1) of the Income Support Regulations^(b), have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations, (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;¹◀

(a) S.I. 1987/1967; the relevant amending Instrument is S.I. 1990/1776.

(b) S.I. 1987/1967.

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- (d) if the claimant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; ¹ and
- (e) if the claimant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.◀

¹Reg. 40(4)(e) inserted by reg. 53(b) (ii) of S.I. 2008/1082 as from 27.10.08.

Enhanced disability premium

15.—¹(1) Subject to sub-paragraph (2), the condition is that—

- ²(a) the Secretary of State has decided that the claimant has, or is to be treated as having limited capability for work-related activity; or
- (b) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations made 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—
 - (i) the claimant; or
 - (ii) a member of the claimant's family,

¹Para. 15(1) substituted by reg. 59(c) of S.I. 2008/1082 as from 27.10.08.

²Para. 15(1)(a) substituted by reg. 39(b) of S.I. 2008/2428 as from 27.10.08.

who ³has not attained the qualifying age for state pension credit.

³Words substituted in para. 15(1) of Sch. 1 by reg. 34(3) of S.I. 2009/1488 as from 6.4.10.

⁴(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Act (entitlement after death of child or qualifying young person).

⁴Para. 15(1A) inserted, words in para. 15(2) & para. 16(c) substituted by reg. 14(2) & (3) of S.I. 2011/674 as from 4.4.11.

(2) ⁴the condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (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 ⁵regulation 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 ⁵regulation 18(11)(e) and has been for a period of more than 52 weeks.

⁵Words in para. 15(2)(a) & (b) substituted by reg. 3(11)(b) of S.I. 2005/2502 as from 1.4.06.

*See page 8.1701.

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
- ⁴(c) is a child or young person in respect of whom section 145A of the Act (entitlement after the death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.

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—

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- (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.

PART 4

Amounts of premiums specified in Part 3

<i>Premium</i>	<i>Amount</i>
20.— (1) ¹ ◀	¹ ◀
(2)–(4) ² ◀	
(5) Disability Premium— (a) where the claimant satisfies the condition in paragraph 12(a) ² ◀;	(5) (a) ³ £28.85;◀
(b) where the claimant satisfies the condition in paragraph 12(b).	(b) ³ £41.10.◀
(6) Severe Disability Premium— (a) where the claimant satisfies the condition in paragraph 14(2)(a);	(6) (a) ³ £55.30;◀
(b) where the claimant satisfies the condition in paragraph 14(2)(b)–	

¹Para. 20(1) revoked by the Sch. of S.I. 2007/2618 as from 1.10.07.

²Para. 20(2)–(4), and words in sub-para. (5)(a) omitted by reg. 5(10)(h)(i) & (ii) of S.I. 2008/1042 as from 19.5.08.

³Amounts in col. 2 of Pt. 4 of Sch. 1 substituted by art. 22(6) & Sch. 10 of S.I. 2011/821 as from 1.4.11. See art. 1(2)(k) of the S.I. for when to apply.

<i>Premium</i>	<i>Amount</i>
<p>(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);</p> <p>(ii) in a case where there is no one in receipt of such an allowance.</p>	<p>(b)(i) ¹£55.30;◀</p> <p>(b)(ii) ¹£110.60.◀</p>
<p>(7) Disabled Child Premium.</p>	<p>(7) ¹£53.62◀ 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.</p>
<p>(8) Carer Premium.</p>	<p>(8) ¹£31.00◀ in respect of each person who satisfies the condition specified in paragraph 17.</p>
<p>(9) Enhanced Disability Premium ²◀.</p>	<p>(9)</p> <p>(a) ¹£21.63◀ in respect of each child or young person in respect of whom the conditions specified in paragraph 15 are satisfied;</p> <p>(b) ¹£14.05◀ in respect of each person who is neither—</p> <p>(i) a child or young person; nor</p> <p>(ii) a member of a couple or a polygamous marriage,</p> <p>in respect of whom the conditions specified in paragraph 15 are satisfied;</p> <p>(c) ¹£20.25◀ 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.</p>

¹Amounts in col. 2 of Pt. 4 of Sch. 1 substituted by art. 22(6) & Sch. 10 of S.I. 2011/821 as from 1.4.11. See art. 1(2)(k) of the S.I. for when to apply.

²In Sch. 1, Part 4, para. 20(9) col. 1, words omitted by reg. 4(5)(b) of S.I. 2010/2449 as from 1.11.10.

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¹Parts 5 & 6 added to Sch. 1 by reg. 39(c) of S.I. 2008/2428 as from 27.10.08.

¹PART 5

The components

21. Subject to paragraph 22 the claimant is entitled to one, but not both, of the components in paragraph 23 or 24 if—

- (a) the claimant or the claimant's partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—
 - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

²Sch. 1, paras. 21A & 27-30 inserted by Sch. 5, para. 70(5)(b) & (c) of S.I. 2010/1907 as from 1.10.10.

²**21A.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 and 24 if the claimant or his partner is entitled to a converted employment and support allowance.◀

22.—(1) The claimant has no entitlement under paragraph 23 or 24 if the claimant is entitled to the disability premium under paragraphs 12 and 13.

(2) Where the claimant and the claimant's partner each satisfies paragraph 23 or 24, the component to be included in the claimant's applicable amount is that which relates to the claimant.

The work-related activity component

23. The claimant is entitled to the work-related activity component if the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work.

The support component

24. The claimant is entitled to the support component if the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work-related activity.

PART 6

Amount of components

³In Sch. 1, part 6, paras. 25 & 26 amounts substituted by art. 22(7)(a) & (b) of S.I. 2011/821 as from 1.4.11. See art. 1(2)(k) of the S.I. for when to apply.

25. The amount of the work-related activity component is ³£26.75◀.

26. The amount of the support component is ³£32.35.◀◀

²PART 7

Transitional Addition

27.—(1) The claimant is entitled to the transitional addition calculated in accordance with paragraph 30 where the claimant or the claimant's partner ("the relevant person")—

- (a) is entitled to a converted employment and support allowance; or
- (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and—

(d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975(a).

(6) “Exempt work” means work of the kind described in—

- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations; or (as the case may be)
- (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995(b),

and, in determining for the purposes of this paragraph whether a claimant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).◀

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 ¹, an income-based jobseeker’s allowance or an income-related employment and support allowance◀, his earnings.

¹Words in para. 12 of Sch. 3 substituted by reg. 61(b) of S.I. 2008/1082 as from 27.10.08.

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 ²paragraphs 3 to 10A◀ of this Schedule shall be increased by ³£17.10◀.

²In Sch. 3, words substituted in para. 16(1) by reg. 4(2)(b) of S.I. 2009/2608 as from 1.4.10.

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

- (a) the claimant, or if he is a member of a couple, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or
- (b) the claimant—
 - (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
 - (ii) is a member of a couple and—
 - (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
 - (bb) his applicable amount includes a family premium under paragraph 3 of Schedule 1; or
 - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
 - (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—

³Amount in Sch. 3, para. 16(1) remains unchanged by art. 22(9) of S.I. 2011/821 as from 1.4.11. See art. 1(2)(k) of the S.I. for when to apply.
*see page 8.1701.

(a) S.I. 1975/556. Regulation 8B was inserted by S.I. 1996/2367. Relevant amending instruments are S.I. 2000/3120, 2003/521, 2007/1749 and 2008/1554.

(b) S.I. 1995/311. Relevant amending instruments are S.I. 2006/757, 2008/2365 and 2008/2683.

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¹Para. 16(2)(b)(iv)(aa) and words in sub-para. (bb) inserted & words in para. 4 of Sch. 4 substituted by regs. 61(c)(i) & (ii) & 62(a) of S.I. 2008/1082 as from 27.10.08.
²Words in para. 16(2)(b)(iv)(bb) omitted by reg. 5(11)(e) of S.I. 2008/1042 as from 19.5.08.

³Words in Sch. 3, para. 16(3) substituted by reg. 4(6) of S.I. 2010/2449 as from 1.11.10.

⁴Amount substituted in Sch. 3 para. 16(3)(c) by art. 21(9) of S.I. 2010/793 as from 1.4.10.

- ¹(aa) the claimant's applicable amount includes a disability premium under paragraph 12, the work-related activity component under paragraph 23 or the support component under paragraph 24 of Schedule 1 respectively;◀
- (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the ²◀ disability premium ¹or either of the components◀ referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
- (c) the claimant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1)–

- (a) the amount calculated as disregarded from the claimant's earnings under ³paragraphs 3 to 10A◀ of this Schedule;
- (b) the amount of child care charges calculated as deductible under regulation 17(1)(c); and
- (c) ⁴£17.10*◀

(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.

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

**Amount in Sch. 3, para. 16(3)(c) remains unchanged by art. 22(9) of S.I. 2011/821 on 1.4.11. See art. 1(2)(k) of the S.I. for when to apply in certain situations.*

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).

See reg. 16(1) of S.I. 2010/1222 page 11.7185 for the details of the modification of Sch. 4 in certain situations as from 22.11.10.

⁵Para. A2 inserted by reg. 14(1)(a) & (2) of S.I. 2011/688 as from 25.4.11.

⁵**A2.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.◀

⁶Para. A3 inserted by reg. 14(1)(a) & (2) of S.I. 2011/917 as from 20.5.11.

⁶**A3.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme, but only for 52 weeks beginning with the date of receipt of the payment.◀

2. Any payment in respect of any expenses incurred or to be incurred by a claimant who is–

- (a) engaged by a charitable or voluntary organisation, or
- (b) 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).

⁷Para. 2A inserted by reg. 8(6)(a) of S.I. 2009/2655 as from 2.11.09.

⁷**2A.** Any payment in respect of expenses arising out of the claimant's participation in a service user group.◀

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 ¹, an income-based jobseeker's allowance or an income-related employment and support allowance◀ the whole of his income.

(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(a).

63.—(1) Any payment made by a local authority or by the ¹Welsh Ministers◀ 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.

¹Words substituted in para. 63(1) by reg. 7(5)(o) of S.I. 2008/3157 as from 5.1.09.

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

64. ²◀

²Para. 64 omitted by reg. 5(12)(e) of S.I. 2008/1042 as from 19.5.08.

65. ³◀

³Para. 65 revoked by reg. 1(3) of S.I. 2008/3140 as from 6.4.09.

⁴**66.** Any payment of child benefit.◀

⁴Para. 66 inserted by reg. 3(2) of S.I. 2009/1848 as from 2.11.09.

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 ⁵, in Scotland,◀ 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 polygamous marriage), only one dwelling shall be disregarded under this paragraph.

⁵Words inserted in para. 1 by reg. 7(6)(a) of S.I. 2008/3157 as from 5.1.09.

See reg. 17(1)(a) of S.I. 2010/1222 at page 11.7185 for the details of the modifications to Sch. 5 in certain situations as from 22.11.10.

⁶**A2.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.◀

⁶Para. A2 inserted by reg. 15(1)(a) & (2) of S.I. 2011/688 as from 25.4.11.

⁷**A3.** Any payment made to the claimant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment but only for 52 weeks beginning with the date of receipt of payment.◀

⁷Para. A3 inserted by reg. 15(1)(a) & (2) of S.I. 2011/917 as from 20.5.11.

(a) S.I. 2001/1167.

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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 ¹where that person has attained the qualifying age for state pension credit or is 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.

¹Words substituted in para. 4(a) of Sch. 5 by reg. 36(2) of S.I. 2009/1488 as from 6.4.10.

5. Where a claimant is on income support ², an income-based jobseeker's allowance or an income-related employment and support allowance◀, the whole of his capital.

²Words in para. 5 of Sch. 5 substituted by reg. 63(a) of S.I. 2008/1082 as from 27.10.08.

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.

30. ¹◀

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 ²◀.

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 ³or by◀ the Trusts, ⁴the Fund ³, MFET Limited◀ ⁵◀ or the Independent Living Fund (2006)◀.

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.

36. ⁵◀.

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(a) or section 66 of the Housing (Scotland) Act 1988(b) (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.

⁶39. Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of 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 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

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

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

41. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision

¹Para. 30 omitted by reg. 7(6)(c) of S.I. 2008/698 as from 14.4.08.

²Words omitted in para. 32 by reg. 6(7) of S.I. 2007/1749 as from 16.7.07.

³Words in para. 34 of Sch. 5 inserted by reg. 10(5)(h) & (12) of S.I. 2010/641 as from 5.4.10.

⁴Words substituted in para. 34 of Sch. 5 by reg. 10(3) of S.I. 2007/2538 as from 1.10.07.

⁵Words in para. 34 and para. 36 omitted by reg. 8(10)(b) & (c) of S.I. 2008/2767 as from 17.11.08.

⁶Paras. 39, 40 & 41 substituted by reg. 7(6)(c) of S.I. 2008/3157 as from 5.1.09.

(a) 1988 c. 50.

(b) 1988 c. 43.

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of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.◀

¹Para. 41A inserted in Sch. 5 by reg. 8(13)(a) of S.I. 2009/583 on or after 6.4.09 subject to reg. 1(4) *ibid*.

²Words substituted in para. 42 by reg. 24(3) of Sch. to S.I. 2007/2128 as from 22.8.07.

³Words in para. 43 omitted by reg. 5(13)(e) of S.I. 2008/1042 as from 19.5.08.

⁴Para. 44 omitted by reg. 7(6)(c) of S.I. 2008/698 as from 14.4.08.

¹**41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).◀

42. Any payment made either by the Secretary of State for ²Justice◀ 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.

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 ³◀ to assist disabled persons to obtain or retain employment despite their disability.

44. ⁴◀

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.

⁵Para. 47 substituted by reg. 17(6)(c) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

⁵**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.◀

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(a), or under Rule 36.14 of the Ordinary Cause Rules 1993(b) 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.

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

50. ⁶◀

⁶Para. 50 omitted by reg. 14(4) of S.I. 2011/674 as from 4.4.11.

(a) 1995 c. 36.

(b) 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.

“Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002^(a);

“young person” has the meaning prescribed in regulation 9(1).

(2) In these Regulations, references to a claimant occupying a dwelling or premises as his home shall be construed in accordance with regulation 7 of the Housing Benefit Regulations.

(3) In these Regulations, where an amount is to be rounded to the nearest penny, a fraction of a penny shall be disregarded if it is less than half a penny and shall otherwise be treated as a whole penny.

See reg. 19(1) of S.I. 2010/1222 at page 8.2001 for details of modifications of this reg. in certain situations.

(4) For the purpose of these Regulations, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with ►¹regulation 27A of the Jobseeker’s Allowance Regulations or◄ section 19 or 20A ►²or regulations made under section 17A◄ of the Jobseekers Act^(b) (circumstances in which a jobseeker’s allowance is not payable); or
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for ►¹regulation 27A of the Jobseeker’s Allowance Regulations or◄ section 19 or 20A ►²or regulations made under section 17A◄ of that Act;
- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker’s allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;
- (d) in respect of which an income-based jobseeker’s allowance or a joint-claim jobseeker’s allowance would be payable but for a restriction imposed pursuant to ►³◄ section ►⁴6B,◄ 7, 8 or 9 of the Social Security Fraud Act 2001^(c) (loss of benefit provisions).

¹Words in reg. 2(4)(a) and (b) inserted by reg. 4(1)(d) of S.I. 2010/509 as from 6.4.10.

²Words in reg. 2(4)(a) & (b) inserted by reg. 17(1)(b) of S.I. 2011/688 as from 25.4.11.

³Words in reg. 2(4)(d) omitted by reg. 11 of S.I. 2010/424 as from 2.4.10.

⁴Words in reg. 2(4)(d) inserted by reg. 7(2) of S.I. 2010/1160 as from 1.4.10.

⁵Reg. 2(4A) inserted by reg. 66(3) of S.I. 2008/1082 as from 27.10.08.

►⁵(4A) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act (disqualification); or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.◄

(5) For the purposes of these Regulations, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(6) In these Regulations references to any person in receipt of a guarantee credit, a savings credit or state pension credit includes a reference to a person who would be in receipt thereof but for regulation 13 of the State Pension Credit Regulations 2002^(d) (small amounts of state pension credit).

(a) S.I. 2002/2005.

(b) Section 20A inserted by the Welfare Reform and Pensions Act 1999 (c. 30), section 59 and Schedule 7, paragraph 13.

(c) 2001 c. 11.

(d) S.I. 2002/1792.

COUNCIL TAX BENEFIT (PERSONS WHO HAVE ATTAINED THE QUALIFYING AGE FOR STATE PENSION CREDIT) REGULATIONS 2006**Definition of non-dependant**

3.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant or with whom a claimant normally resides.

(2) This paragraph applies to—

- (a) any member of the claimant’s family;
- (b) if the claimant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- (c) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 11 (membership of the same household);
- (d) subject to paragraph (3), any person who, with the claimant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under sections 6, 7 or 75 of the 1992 Act (persons liable to pay council tax);
- (e) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the claimant or the claimant’s partner in respect of the occupation of the dwelling;
- (f) a person who lives with the claimant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the claimant or his partner for the services provided by that person.

(3) Excepting persons to whom paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following sub-paragraphs applies shall be a non-dependant—

- (a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either—
 - (i) that person is a close relative of his or his partner; or
 - (ii) the tenancy or other agreement between them is other than on a commercial basis;
- (b) a person whose liability to make payments in respect of the dwelling appears to the relevant authority to have been created to take advantage of the council tax benefit scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;
- (c) a person who becomes jointly and severally liable with the claimant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the relevant authority is satisfied that the change giving rise to the new liability was not made to take advantage of the council tax benefit scheme.

Section 1(1A) of the Administration Act disappplied

¹Reg. 4 substituted by reg. 12 of S.I. 2009/471 as from 6.4.09.

►¹4. Section 1(1A) of the Administration Act (requirement to state a national insurance number) shall not apply—

- (a) in the case of a child or young person in respect of whom council tax benefit is claimed;
- (b) to a person who—
 - (i) is a person in respect of whom a claim for council tax benefit is made;
 - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;
 - (iii) is a person from abroad for the purposes of these Regulations as defined in regulation 7(2); and
 - (iv) has not previously been allocated a national insurance number.◀

- (c) section 30DD or section 30E of the Act^(a) (reductions in incapacity benefit in respect of pensions and councillor's allowances).
- ▶¹(d) section 3 of the Welfare Reform Act (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it.◀

¹Reg. 19(5)(d) inserted by reg. 70 of S.I. 2008/1082 as from 27.10.08.

(6)–(7) ▶²◀

²Reg. 19(6) & (7) omitted by reg. 8(3) of S.I. 2009/1676 as from 2.11.09.

(8) In paragraph (1)(w), “equity release scheme” means a loan–

- (a) made between a person (“the lender”) and the claimant;
- (b) by means of which a sum of money is advanced by the lender to the claimant by way of payments at regular intervals; and
- (c) which is secured on a dwelling in which the claimant owns an estate or interest and which he occupies as his home.

Calculation of income on a weekly basis

20.—(1) Subject to regulation 24 (disregard of changes in tax, contributions etc.), for the purposes of section 131(5) of the Act (conditions for entitlement to council tax benefit) the claimant's income shall be calculated on a weekly basis–

- (a) by calculating or estimating the amount which is likely to be his average weekly income in accordance with this Part;
 - (b) by adding to that amount the weekly income calculated under regulation 19(2);
 - (c) by then deducting any relevant child care charges to which regulation 21 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in paragraph (2) are met, from those earnings plus whichever credit specified in subparagraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the claimant's family of whichever of the sums specified in paragraph (3) applies in his case.
- (2) The conditions of this paragraph are that–
- (a) the claimant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case; and
 - (b) that claimant or, if he is a member of a couple either the claimant or his partner, is in receipt of working tax credit or child tax credit.
- (3) The maximum deduction to which paragraph (1)(c) above refers shall be–
- (a) where the claimant's family includes only one child in respect of whom relevant child care charges are paid, £175.00* per week;
 - (b) where the claimant's family includes more than one child in respect of whom relevant child care charges are paid, £300.00* per week.

* Amounts £175.00 and £300.00 in reg. 20(3)(a) & (b) remains unchanged by art. 23(2) of S.I. 2011/821 as from 1.4.11. See art. 1(k) of the S.I. for details.

(a) Sections 30DD and 30E were inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

COUNCIL TAX BENEFIT (PERSONS WHO HAVE ATTAINED THE QUALIFYING AGE FOR STATE PENSION CREDIT) REGULATIONS 2006**Treatment of child care charges**

21.—(1) This regulation applies where a claimant is incurring relevant child care charges and—

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other—
 - (i) is incapacitated;
 - (ii) is an in-patient in hospital; or
 - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

(2) For the purposes of paragraph (1) and subject to paragraph (4), a person to whom paragraph (3) applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—

- (a) is paid statutory sick pay;
- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act^(a);

¹Reg. 21(2)(ba) & words in reg. 21(2)(d) & (3) inserted by reg. 71(a) & (b) of S.I. 2008/1082 as from 27.10.08.

- ▶¹(ba) is paid an employment and support allowance; ◀
- (c) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987^(b); or
- (d) is credited with earnings on the grounds of incapacity for work ▶¹or limited capability for work ◀ under regulation 8B of the Social Security (Credits) Regulations 1975^(c).

(3) This paragraph applies to a person who was engaged in remunerative work immediately before—

- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity ▶¹, an employment and support allowance ◀ benefit or income support on the grounds of incapacity for work; or
- (b) the first day of the period in respect of which earnings are credited,

as the case may be.

(4) In a case to which paragraph (2)(c) or (d) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(5) Relevant child care charges are those charges for care to which paragraphs (6) and (7) apply, and shall be estimated on a weekly basis in accordance with paragraph (10).

(6) The charges are paid by the claimant for care which is provided—

- (a) in the case of any child of the claimant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
- (b) in the case of any child of the claimant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day

(a) Sections 30A to 30E were inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18). Section 30A(1) was substituted by, and section 30A(2) was amended by, the Welfare Reform and Pensions Act 1999 (c. 30). Section 30B(3) was amended by the Pensions Act 1995 (c. 26) and the Tax Credits Act 2002 (c. 21). Section 30C(5) was amended by the Tax Credits Act 1999 (c. 10) and substituted by the Tax Credits Act 2002.

(b) S.I. 1987/1967. Regulation 4ZA was inserted by S.I. 1996/206. Schedule 1B was inserted by S.I. 1996/1517. The relevant amending instruments are S.I. 1997/2197, S.I. 2000/636, S.I. 2000/1981, S.I. 2001/3070 and S.I. 2002/2689.

(c) S.I. 1975/556. The relevant amending instruments are S.I. 2000/3120 and S.I. 2003/521.

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(a).

(5) For the purposes of sub-paragraph (4), 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.

(6) 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 the care component of disability living allowance 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 sub-paragraphs (4) and (5).

(7) 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.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—

- (a) 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 ►¹the date on which the award is first paid◄; 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 ►²6B or◄ 7 of the Social Security Fraud Act 2000(b) (loss of benefit).

¹Words substituted in para. 6(8)(a) by reg. 9(3) of S.I. 2007/719 as from 2.4.07.

²Words in Sch. 1 para. 6(8)(b) inserted by reg. 7(3) of S.I. 2010/1160 as from 1.4.10.

Enhanced disability premium

7.—►³(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 child or young person who is a member of the claimant's family.

►³(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Act (entitlement after death of child or qualifying young person).◄

³Para. 7(2) & words in para. 7 inserted and para. 8(3) substituted by reg. 15(2)-(3) of S.I. 2011/674 as from 4.4.11 in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, and in any other case on 1st April 2011.

Disabled Child Premium

8. 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 within the meaning of paragraph 6(4) or treated as blind in accordance with paragraph 6(5); or
- ³(c) is a child or a young person in respect of whom section 145A of the Act (entitlement after death of child or qualifying young person) applies for the

(a) 1994 c. 39. Section 2 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 232(1).

(b) 2001 c. 11.

COUNCIL TAX BENEFIT (PERSONS WHO HAVE ATTAINED THE QUALIFYING AGE FOR STATE PENSION CREDIT) REGULATIONS 2006

purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.◀

Carer Premium

9.—(1) The condition is that the claimant or his partner is, or both of them are, entitled to a carer's allowance.

(2) Where a carer premium has been awarded but—

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

this paragraph 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) is—

- (a) the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
- (b) where head (a) above does not apply, the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

(4) For the purposes of this paragraph, a person shall be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

Persons in receipt of concessionary payments

10. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9, 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.

Person in receipt of benefit

11. 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.

2001 No. 1167

SOCIAL SECURITY

The Discretionary Financial Assistance
Regulations 2001

Made - - - - - 25th March 2001

Laid before Parliament 28th March 2001

Coming into force - - 2nd July 2001

The Secretary of State for Social Security in exercise of the powers conferred upon him by section 69(1) to (4) and (7) of the Child Support, Pensions and Social Security Act 2000(a) and section 189(4) to (6) of the Social Security Administration Act 1992(b) after consultation with organisations appearing to him to be representative of the authorities concerned(c), by this Instrument which is made before the end of the period of six months beginning with the coming into force of section 69 of the Child Support, Pensions and Social Security Act 2000(d), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Discretionary Financial Assistance Regulations 2001 and shall come into force on 2nd July 2001.

▶¹(2) In these Regulations—

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006; and

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.◀

¹Para. (2) of reg. 1 substituted by para. 18(2) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

Discretionary housing payments

2.—(1) Subject to paragraphs (2) and (3) and the following regulations, a relevant authority may make payments by way of financial assistance (“discretionary housing payments”) to persons who—

- (a) are entitled to housing benefit or council tax benefit or to both; and
- (b) appear to such an authority to require some further financial assistance (in addition to the benefit or benefits to which they are entitled) in order to meet housing costs.

(2) Subject to paragraph (3) and regulations 4 and 5, a relevant authority has a discretion—

- (a) as to whether or not to make discretionary housing payments in a particular case; and
- (b) as to the amount of the payments and the period for, or in respect of which, they are made.

(a) 2000 c. 19. Section 69(7) is an interpretation provision and is cited because of the definition of “prescribed”.

(b) 1992 c. 5.

(c) See section 176(1) of the Social Security Administration Act 1992 as amended by section 69(6) of the Child Support, Pensions and Social Security Act 2000.

(d) See section 170 (as amended by section 73 of the Child Support, Pensions and Social Security Act 2000) and 173(5)(a) of the Social Security Administration Act 1992

Regs. 2-3

(3) Paragraphs (1) and (2) shall not apply in respect of housing costs incurred in any period before 2nd July 2001—

- (a) in the case of a person entitled to council tax benefit who requires further financial assistance in order to meet his liability to pay council tax;
- (b) in the case of a person entitled to housing benefit who requires further financial assistance in order to meet housing costs (other than costs in respect of council tax) arising from his liability to make periodical payments in respect of the dwelling which he occupies as his home.

Circumstances in which discretionary housing payments may be made

3. For the purposes of section 69(2)(a) of the Child Support, Pensions and Social Security Act 2000, ¹or section ²6B, ³7, 8 or 9 of the Social Security Fraud Act 2001 ⁴the prescribed circumstance in which discretionary housing payments may be made is where a person has made a claim for a discretionary housing payment and the requirement for financial assistance does not arise as a consequence of—

- (a) a liability to meet any of the ineligible service charges specified in ³Schedule 1 to the Housing Benefit Regulations or Schedule 1 to the Housing Benefit (State Pension Credit) Regulations ⁴;
- (b) a liability to meet charges for water, sewerage or allied environmental services;
- (c) a liability to meet council tax payments in a case where the person is entitled to housing benefit but not council tax benefit;
- (d) a liability to make periodical payments in respect of such housing costs as are referred to in ⁴regulation 12 of the Housing Benefit Regulations or regulation 12 of the Housing Benefit (State Pension Credit) Regulations ⁴(a) in a case where the person is entitled to council tax benefit but not housing benefit;
- (e) a liability to meet council tax where the conditions in section 131(4) and (5) of the Social Security Contributions and Benefits Act 1992 ⁵(b) are not satisfied and alternative maximum council tax benefit is payable;
- (f) a liability to meet the increase in such payment as is referred to in ⁴regulation 11(3) of the Housing Benefit Regulations or regulation 11(2) of the Housing Benefit (State Pension Credit) Regulations ⁴(c);
- (g) a reduction of an amount of benefit by virtue of ⁴section 46(5) ⁴ of the Child Support Act 1991 ⁴(d);
- (h) a reduction of a specified amount of benefit by virtue of section 2A of the Social Security Administration Act 1992 ⁴(e);
- (i) a reduction in the amount of a jobseeker's allowance payable by virtue of section 17 of the Jobseekers Act 1995 ⁴(f);

See reg. 19(1)(c) of S.I. 2010/1222 at page 11.7185 for details of the modifications of reg. 3(j) in certain situations.

- (j) the non-payability of a jobseeker's allowance or a reduction in the amount of a jobseeker's allowance payable, pursuant to a decision made by virtue of ⁵regulation 27A of the Jobseeker's Allowance Regulation 1996 or ⁶section 19 or 20A ⁶or regulations made under section 17A ⁶ of the Jobseekers Act 1995 ⁶(g);
- (k) the suspension of payment of an amount of benefit by virtue of section 21, 22 or 24 of the Social Security Act 1998 ⁶(h) or section 68 of, and paragraphs 13 and 14 of Schedule 7 to, the Child Support, Pensions and Social Security Act 2000.

¹Words in reg. 3 inserted by reg. 10 of S.I. 2002/490 as from 1.4.02.

²Words in reg. 3(1) inserted by reg. 8(2) of S.I. 2010/1160 as from 1.4.10.

³Words substituted in reg. 3(a) by para. 18(3) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

⁴Words substituted in reg. 3(d), (f) & (g) by reg. 2(a)-(c) of S.I. 2008/637 as from 7.4.08.

⁵Words in reg. 3(j) inserted by reg. 4(3) of S.I. 2010/509 as from 6.4.10.

⁶Words inserted in reg. 3(j) by reg. 17(1)(c) & (2) of S.I. 2011/688 as from 25.4.11.

(a) Relevant amending instruments are S.I. 1988/1971, 1990/546, 1993/317, 1995/1644 and 2868, 1996/965 and 2001/487.

(b) 1992 c. 4.

(c) Relevant amending instrument is S.I. 1991/201.

(d) 1991 c. 48.

(e) Section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30).

(f) 1995 c. 18. Section 17 was amended by paragraph 11 of Schedule 7 to the Welfare Reform and Pensions Act 1999.

(g) Section 20A was inserted by paragraph 13 of Schedule 7 to the Welfare Reform and Pensions Act 1999.

(h) 1998 c. 14.

“designated office” means the office designated by the relevant authority for the receipt of claims to housing benefit—

- (a) by notice upon or with a form approved by it for the purpose of claiming housing benefit; or
- (b) by reference upon or with such a form to some other document available from it and sent by electronic means or otherwise on application and without charge; or
- (c) by any combination of the provisions set out in sub-paragraphs (a) and (b) above;

“disability living allowance” means a disability living allowance under section 71 of the Act;

“earnings” has the meaning prescribed in regulation 35 or, as the case may be, 37;

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

▶¹“electronic communication” has the same meaning as in section 15(1) of the 2000 Act;◀

▶²“eligible rent” means, as the case may require, an eligible rent determined in accordance with—

- (a) regulations 12B (eligible rent), 12C (eligible rent and maximum rent) or 12D (eligible rent and maximum rent (LHA)); or
- (b) regulations 12 (rent) and 13 (restrictions on unreasonable payments) as set out in paragraph 5 of Schedule 3 to the Consequential Provisions Regulations in a case to which paragraph 4 of that Schedule applies;◀

This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2868 at page 8.3755 for details.

“eligible rent” is to be construed in accordance with regulation 12 (rent);

“employed earner” is to be construed in accordance with section 2(1)(a) of the Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

▶³“Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008(a);◀

▶⁴“Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010;◀

▶⁵“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (scheme for assisting persons to obtain employment “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);◀

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(b) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State for Work and Pensions;

▶⁶“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;◀

▶⁷“extended payment” means a payment of housing benefit payable pursuant to regulation 72;

“extended payment period” means the period for which an extended payment is payable in accordance with regulation 72A or 73A;

¹Defn. of “electronic communication” inserted by art. 2(2)(b) of S.I. 2006/2968 as from 20.12.06.

²Defn. of “eligible rent” substituted by reg. 4(1)(a) of S.I. 2007/2868 on or after 7.4.08. See reg. 1 to this S.I. for when to apply.

³Defn. of “Employment and Support Allowance Regulations” inserted by reg. 5(2)(d) of S.I. 2008/1082 as from 27.10.08.

⁴Defn. of “Employment and Support Allowance (Existing Awards) Regulations” inserted in reg. 2 by Sch. 5, para. 69(2)(b) of S.I. 2010/1907 as from 1.10.10.

⁵Defn. of “the Employment, Skills and Enterprise Scheme” inserted by reg. 11(1)(b) & (2) of S.I. 2011/917 as from 20.5.11.

⁶Defn. of “enactment” inserted by reg. 6(2) of S.I. 2009/2655 as from 2.11.09.

⁷Defns. of “extended payments”, “extended payment period” and “extended payment (qualifying contributory benefits)” substituted by regs. 4(2)(a) & (b) of S.I. 2008/959 as from 6.10.08.

(a) S.I. 2008/794.

(b) 1999 c. 30.

Reg. 2

“extended payment (qualifying contributory benefits)” means a payment of housing benefit payable pursuant to regulation 73;◀

“family” has the meaning assigned to it by section 137(1) of the Act;

“the former Regulations” means the Housing Benefit (General) Regulations 1987(a);

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

▶¹◀

▶²“the Graduated Retirement Benefit Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005(b)◀

“a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(c);

“hostel” means a building—

- (a) in which there is provided for persons generally or for a class of persons, domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both; and
- (b) which is—
 - (i) managed or owned by a registered housing association; or
 - (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or
 - (iii) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community; and
- (c) which is not—
 - (i) a care home;
 - (ii) an independent hospital; or
 - (iii) an Abbeyfield Home;

▶³“Housing Act functions” means functions under section 122 of the Housing Act 1996;◀

▶⁴“housing association” has the meaning assigned to it by section 1(1) of the Housing Associations Act 1985(d);◀

“Immigration and Asylum Act” means the Immigration and Asylum Act 1999(e); “an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the same meanings as they have in the Jobseekers Act by virtue of section 1(4) of that Act;

▶⁵“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act;◀

“Income Support Regulations” means the Income Support (General) Regulations 1987(f);

▶⁶“independent hospital”—

- (a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and
- (c) in Scotland, means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;◀

▶⁷◀

¹Defn. of “gateway office” omitted by reg. 2(2) of S.I. 2008/2299 as from 1.10.08.

²Defn. of “the Graduated Retirement Benefit Regulations” inserted by reg. 11(2) of S.I. 2005/2677 as from 6.4.06.

³Defn. of “Housing Act functions” substituted by reg. 2(2) of S.I. 2010/2449 as from 1.11.10.

⁴Defn. of “housing association” substituted by reg. 4(1)(b) of S.I. 2007/2868 on or after 7.4.08, see reg. 1(6) of the S.I. for details.

⁵Defn. of “income-related employment and support allowance” inserted by reg. 5(2)(e) of S.I. 2008/1082 as from 27.10.08.

⁶Defn. of “independent hospital” substituted by reg. 20 of S.I. 2010/1881 as from 1.10.10.

⁷Defn. of “independent Living fund” omitted by reg. 6(2)(b) of S.I. 2008/2767 as from 17.11.08.

(a) S.I. 1987/1971.

(b) S.I. 2005/454.

(c) S.I. 2005/439.

(d) 1985 c. 69.

(e) 1999 c. 33.

(f) S.I. 1987/1967.

▶¹“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part; ◀

▶² ◀

▶³ ◀

“invalid carriage or other vehicle” means a vehicle propelled by petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“Jobseekers Act” means the Jobseekers Act 1995(a);

“Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(b);

▶⁴“limited capability for work” has the meaning given in section 1(4) of the Welfare Reform Act;

“limited capability for work-related activity” has the meaning given in section 2(5) of the Welfare Reform Act; ◀

▶⁵“linked person” means—

- (a) any member of the claimant’s family;
- (b) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household; or
- (c) any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him, except for a relative who has a separate right of occupation of the dwelling which would enable them to continue to occupy it even if the claimant ceased his occupation of it;

“local housing allowance” means an allowance determined in accordance with paragraph 2 of Schedule 3B to the Rent Officers Order; ◀

“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“long tenancy” means a tenancy granted for a term of years certain exceeding twenty one years, whether or not the tenancy is, or may become, terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture (or, in Scotland, irritancy) or otherwise and includes a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal unless it is a lease by subdemise from one which is not a long tenancy;

▶⁶ ◀

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

▶⁷“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the claimant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act ▶⁸except in Part 1 of Schedule 3◀; ◀

▶⁸“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants to improve their prospects of obtaining employment; ◀

¹Defn. of “the Independent Living Fund (2006)” inserted by reg. 8(2)(a) of S.I. 2007/2538 as from 1.10.07.

²Defns. of “the Independent Living Funds”, “Independent Living (Extension) Fund” & “the Independent Living (1993)” Fund omitted by reg. 6(2)(c)-(e) of S.I. 2008/2767 as from 17.11.08.

³Defn. of “intensive activity period for 50 plus” omitted by reg. 6(2) of S.I. 2008/698 as from 14.4.08.

⁴Defns. of “limited capability for work” and “limited capability for work-related activity” inserted by reg. 27 of S.I. 2008/2428 as from 27.10.08.

⁵Defn. of “linked person” & “local housing allowance” inserted by reg. 4(1)(g) of S.I. 2007/2868 as from 7.4.08.

⁶Defn. of “lower rate” revoked by Sch. to S.I. 2007/2618 as from 1.10.07.

⁷Defn. of “main phase employment and support allowance” inserted by reg. 5(2)(f) of S.I. 2008/1082 as from 27.10.08.

⁸Words inserted in defn. of “main phase employment and support allowance” in reg. 2 by reg. 6(2)(b) of S.I. 2009/583 as from 7.4.09.

⁸Defn. of “the Mandatory Work Activity Scheme” inserted by reg. 11 of S.I. 2011/688 as from 25.4.11.

(a) 1995 c. 18.

(b) S.I. 1996/207.

Reg. 2

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996(a);

¹Defn. of “maximum rent” substituted by reg. 4(1)(c) of S.I. 2007/2868 as from 7.4.08.

▶¹“maximum rent” means the amount to which the eligible rent is restricted in a case where regulation 13 applies;◀

This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2868 at page 8.3755 for details.

“maximum rent” means the amount to which the eligible rent is restricted in a case where regulation 13 applies;

²Defn. of “maximum rent (LHA)” inserted by reg. 4(1)(g) of S.I. 2007/2868 as from 7.4.08.

▶²“maximum rent (LHA)” means the amount determined in accordance with regulation 13D;◀

³Defn. of “MFET Limited” inserted by reg. 8(2) of S.I. 2010/641 as from 5.4.10.

▶³“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;◀

⁴Defn. of “mover” substituted and defn. of “new dwelling” inserted by regs. 4(2)(c) & (d) of S.I. 2008/959 as from 6.10.08.

▶⁴“mover” means a claimant who changes the dwelling occupied as the claimant’s home from a dwelling in the area of the appropriate authority to a dwelling in the area of a second authority;◀

“net earnings” means such earnings as are calculated in accordance with regulation 36 (calculation of net earnings of employed earners);

“net profit” means such profit as is calculated in accordance with regulation 38 (calculation of net profit of self-employed earners);

“the New Deal options” means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

▶⁴“new dwelling” means, for the purposes of the definition of “second authority” and regulations 72C, 73C, 115 and 116, the dwelling to which a claimant has moved, or is about to move, which is or will be occupied as the claimant’s new home;◀

“non-dependant” has the meaning prescribed in regulation 3;

⁵Defn. of “non-dependant deduction” substituted by reg. 4(1)(d) of S.I. 2007/2868 as from 7.4.08.

▶⁵“non-dependant deduction” means a deduction that is to be made under regulation 74 (non-dependant deductions);◀

This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2007/2868 at page 8.3755 for details.

“non-dependant deduction” means a deduction that is to be made under regulation 74 (non-dependant deductions);

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“ordinary clothing or footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities;

“owner” means—

- (a) in relation to a dwelling in England and Wales, the person who, otherwise than as a mortgagee in possession, is for the time being entitled to dispose of the fee simple, whether or not with the consent of other joint owners;
- (b) in relation to a dwelling in Scotland, the proprietor under udal tenure or the proprietor of the dominion utile or the tenant’s or the lessee’s interest in a long tenancy, a kindly tenancy, a lease registered or registerable under the Registration of Leases (Scotland) Act 1857(b) or the Land Registration (Scotland) Act 1979(c) or a tenant-at-will as defined in section 20(8) of that Act of 1979;

(a) 1996 c. 18.

(b) 1857 c. 26.

(c) 1979 c. 33.

▶¹◀

▶²“second authority” means the authority to which a mover is liable to make payments for the new dwelling;◀

▶²◀

“self employed earner” is to be construed in accordance with section 2(1)(b) of the Act;

See reg. 13(3) of S.I. 2010/1222 at page 11.7185 for details of the modifications of this defn. in certain situations.

“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in–

- (a) an employment zone programme; ▶³◀
- (b) a programme provided or other arrangements made pursuant to section 2 of the 1973 Act (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(a) (functions in relation to training for employment, etc.); ▶³or
- (c) the Employment, Skills and Enterprise Scheme;◀

▶⁴“service user group” means a group of individuals that is consulted by or on behalf of–

- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978,
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,
- (c) a public authority in consequence of a function under section 49A of the Disability Discrimination Act 1995,
- (d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
- (e) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,
- (f) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
- (g) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
- (h) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008,
- (i) the regulator or a ▶⁵private registered provider of social housing◀ in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008, or
- (j) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;◀

“shared ownership tenancy” means–

- (a) in relation to England and Wales, a ▶⁶lease◀ granted on payment of a premium calculated by reference to a percentage of the value of the dwelling or the cost of providing it;
- (b) in relation to Scotland, an agreement by virtue of which the tenant of a dwelling of which he and the landlord are joint owners is the tenant in respect of the landlord’s interest in the dwelling or by virtue of which the tenant has the right to purchase the dwelling or the whole or part of the landlord’s interest therein;

¹Defn. of “retirement annuity contract” omitted by reg. 4(2)(c) of S.I. 2007/1749 as from 16.7.07.

²Defn. of “second authority” inserted and defn. of “second dwelling” omitted by regs. 4(2)(f) & (g) of S.I. 2008/959 as from 6.10.08.

³Word in defn. of “self-employment route” omitted whilst word & para. (c) inserted by reg. 11(3)(a) & (b) of S.I. 2011/917 as from 20.5.11.

⁴Defn. of “service user group” inserted by reg. 6(2) of S.I. 2009/2655 as from 2.11.09.

⁵Words substituted in defn. of “service user group” para. (f) by para. 51(b) of Sch. 1 to S.I. 2010/671 as from 1.4.10.

⁶Words substituted in defn. of “shared ownership tenancy” by reg. 2(2) of S.I. 2007/1356 as from 1.10.07.

(a) 1990 c. 35.

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¹Defn. of “single room rent” inserted by reg. 4(1)(g) of S.I. 2007/2868 as from 7.4.08.

²Defn. of “special account” inserted by reg. 8(2) of S.I. 2010/641 as from 5.4.10.

³Defn. of “starting rate” omitted by reg. 6(2)(c) of S.I. 2009/583 as from 6.4.09.

“single claimant” means a claimant who neither has a partner nor is a lone parent;

▶¹“single room rent” means the rent determined by a rent officer under paragraph 5 of Schedule 1 to the Rent Officers Order; ◀

“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;

▶²“special account” means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations; ◀

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993(a) out of sums allocated to it for distribution under that section;

▶³ ◀

“student” has the meaning prescribed in regulation 53 (interpretation);

“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

(a) 1993 c. 39; section 23(2) was amended by art. 2 of the National Lottery etc. Act 1993 (Amendment of section 23) Order 1996 (S.I. 1996/3095).

“the Tax Credits Act” means the Tax Credits Act 2002(a);

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, ►¹Skills Development Scotland, ◀ Scottish Enterprise or Highlands and Islands Enterprise, the ►²Young People’s Learning Agency for England, the Chief Executive of Skills Funding◀ or the ►³Welsh Ministers◀;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, ►¹Skills Development Scotland, ◀ Scottish Enterprise or Highlands and Islands Enterprise or the ►³Welsh Ministers◀,

¹Words inserted in defn. of “training allowance”, paras. (a) & (c) by reg. 6(3)(a) of S.I. 2009/583 as from 6.4.09.

²Words substituted in defn. of “training allowance” by reg. 14(2) of S.I. 2010/1941 as from 1.9.10.

³Words substituted in defn. of “training allowance” & defns. of “war disablement pension”, “war widow’s pension”, “war widower’s pension” inserted in reg. 2 by reg. 5(2)(c) & (d) of S.I. 2008/3157 as from 5.1.09.

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act(b) or is training as a teacher;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

►³“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(c);

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;◀

“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991(d).
- (b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002(e)

in so far as such charges are in respect of the dwelling which a person occupies as his home;

►⁴“Welfare Reform Act” means the Welfare Reform Act 2007;◀

For details of the modification of reg. 2(1) in certain circumstances. See reg. 13(1)(b) of S.I. 2010/1222 page 11.7185 as from 22.11.10.

⁴Defn. of “Welfare Reform Act” inserted by reg. 5(2)(i) of S.I. 2008/1082 as from 27.10.08.

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act;

(a) 2002 c. 21.

(b) 1973 c. 50; Section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part 1 of Schedule 7 to the Employment Act (c. 38) and by section 47(1) of the Trade Union Reforms and Employment Rights Act 1993 (c. 19).

(c) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

(d) 1991 c. 56.

(e) 2002 asp 3; section 29A was inserted by section 21(1) of the Water Services etc. (Scotland) Act 2005 (2005 asp 3).

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¹Defn. of "young individual" substituted by reg. 4(1)(f) of S.I. 2007/2868 as from 7.4.08.

"Working Tax Credit Regulations" means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(a);

►¹"young individual" means a single claimant who has not attained the age of 25 years, but does not include such a claimant—

- (a) whose landlord is a registered housing association;
- (b) who has not attained the age of 22 years and has ceased to be the subject of a care order made pursuant to section 31(1)(a) of the Children Act 1989(b) which had previously been made in respect to him either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age;
- (c) who has not attained the age of 22 years and was formerly provided with accommodation under section 20 of the Children Act 1989;
- (d) who has not attained the age of 22 years and has ceased to be subject to a supervision requirement by a children's hearing under section 70 of the Children (Scotland) Act 1995(c) ("the 1995 Act") made in respect of him which had continued after he attained the age of 16 years, other than a case where—
 - (i) the ground of referral was based on the sole condition as to the need for compulsory measures of care specified in section 52(1)(i) of the 1995 Act (commission of offences by child); or
 - (ii) he was required by virtue of the supervision requirement to reside with a parent or guardian of his within the meaning of the 1995 Act, or with a friend or relative of his or of his parent or guardian;
- (e) who has not attained the age of 22 years and has ceased to be a child in relation to whom the parental rights and responsibilities were transferred to a local authority under a parental responsibilities order made in accordance with section 86 of the 1995 Act or treated as so vested in accordance with paragraph 3 of Schedule 3 to that Act, either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age; or
- (f) who has not attained the age of 22 years and has ceased to be provided with accommodation by a local authority under section 25 of the 1995 Act where he has previously been provided with accommodation by the authority under that provision either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued to be in such accommodation after he attained that age;◀

►²Or

- (g) who is a person who requires overnight care;◀

²In reg. 2, word in para. (1)(f) & para. (1)(g) added by reg. 2(2)(b) of S.I. 2010/2835 as from 1.4.11.

These paragraphs continue to be reproduced as they remain in force in certain cases. See reg. 1 of S.I. 2007/2868 at page 8.3755 for details.

"young individual" means a single claimant who has not attained the age of 25 years, but does not include such a claimant—

- (a) whose landlord is a registered housing association;
- (b) who has not attained the age of 22 years and has ceased to be the subject of a care order made pursuant to section 31(1)(a) of the Children Act 1989(d) which had previously been made in respect to him either—
 - (i) after he attained the age of 16 years; or

(a) S.I. 2002/2005.
 (b) 1989 c. 41.
 (c) 1995 c. 36.
 (d) 1989 c. 41.

- (ii) before he attained the age of 16 years, but had continued after he attained that age;
- (c) who has not attained the age of 22 years and was formerly provided with accommodation under section 20 of the Children Act 1989;
- (d) who has not attained the age of 22 years and has ceased to be subject to a supervision requirement by a children's hearing under section 70 of the Children (Scotland) Act 1995^(a) ("the 1995 Act") made in respect of him which had continued after he attained the age of 16 years, other than a case where—
 - (i) the ground of referral was based on the sole condition as to the need for compulsory measures of care specified in section 51(1)(i) of the 1995 Act (commission of offences by child); or
 - (ii) he was required by virtue of the supervision requirement to reside with a parent or guardian of his within the meaning of the 1995 Act, or with a friend or relative of his or of his parent or guardian;
- (e) who has not attained the age of 22 years and has ceased to be a child in relation to whom the parental rights and responsibilities were transferred to a local authority under a parental responsibilities order made in accordance with section 86 of the 1995 Act or treated as so vested in accordance with paragraph 3 of Schedule 3 to that Act, either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age; or
- (f) who has not attained the age of 22 years and has ceased to be provided with accommodation by a local authority under section 25 of the 1995 Act where he has previously been provided with accommodation by the authority under that provision either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued to be in such accommodation after he attained that age;

"young person" has the meaning prescribed in regulation 19(1) (persons of prescribed description).

(2) References in these Regulations to a person who is liable to make payments shall include references to a person who is treated as so liable under regulation 8 (circumstances in which a person is to be treated as liable to make payments in respect of a dwelling).

See reg. 19(1)(d) of S.I. 2010/1222 at page 11.7185 for details of modifications of this reg. in certain situations.

(3) For the purposes of these Regulations, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid in accordance with ►¹regulation 27A of the Jobseeker's Allowance Regulations or◄ section 19 or 20A ►²or regulations made under section 17A◄ of the Jobseekers Act^(b) (circumstances in which a jobseeker's allowance is not payable); or
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for ►¹regulation 27A of the Jobseeker's Allowance Regulations or◄ section 19 or 20A ►²or regulations made under section 17A◄ of that Act; or

¹Words inserted in reg. 2(3)(a) & (b) by reg. 4(1)(a) of S.I. 2010/509 as from 6.4.10.

²Words inserted in reg. 2(3)(a) & (b) by reg. 17(1)(d) & (2) of S.I. 2011/688 as from 25.4.11.

(a) 1995 c. 36.

(b) Section 20A inserted by the Welfare Reform and Pensions Act 1999 (c. 30), section 59 and Schedule 7, paragraph 13.

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- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act; or
- (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to ¹section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001^(a) (loss of benefit provisions).

¹Words omitted in reg. 2(3)(d) by reg. 8 of S.I. 2010/424. See reg. 1(3) to this S.I. for relevant commencement date.

²Words in reg. 2(3)(d) substituted by reg. 4(2) of S.I. 2010/1160 as from 1.4.10.

³Reg. 2(3A) inserted by reg. 5(3) of S.I. 2008/1082 as from 27.10.08.

³(3A) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act (disqualification); or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.

(4) For the purposes of these Regulations, the following shall be treated as included in a dwelling—

- (a) subject to sub-paragraphs (b) to (d) any land (whether or not occupied by a structure) which is used for the purposes of occupying a dwelling as a home where either—
 - (i) the occupier of the dwelling acquired simultaneously the right to use the land and the right to occupy the dwelling, and, in the case of a person liable to pay rent for his dwelling, he could not have occupied that dwelling without also acquiring the right to use the land; or
 - (ii) the occupier of the dwelling has made or is making all reasonable efforts to terminate his liability to make payments in respect of the land;
- (b) where the dwelling is a caravan or mobile home, such of the land on which it stands as is used for the purposes of the dwelling;
- (c) where the dwelling is a houseboat, the land used for the purposes of mooring it;
- (d) where in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993^(b), the croft land on which it is situated or to which it pertains.

Definition of non-dependant

3.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant or with whom a claimant normally resides.

(2) This paragraph applies to—

- (a) any member of the claimant's family;
- (b) if the claimant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- (c) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 21 (circumstances in which a person is to be treated as being or not being a member of the same household);
- (d) subject to paragraph (3), a person who jointly occupies the claimant's dwelling and is either a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling;

(a) 2001 c. 11.

(b) 1993 c. 44.

- (c) the tenancy is an excluded tenancy of a type ¹mentioned in any of paragraphs 4 to 11 [◀] of Schedule 2;
- (d) the claim or award relates to—
 - (i) periodical payments of kind falling within regulation 12(1) (rent) which a person is liable to make in relation to a houseboat, caravan or mobile home which he occupies as his home; or
 - (ii) rent payable in relation to a hostel; or
- (e) rent under the tenancy is attributable to board and attendance, and—
 - (i) the relevant authority has made an application to the rent officer in accordance with regulation 13D(10) (board and attendance determination), regulation 15 (applications to the rent officer for determinations) or regulation 17 (substitute determinations or substitute redeterminations); and
 - (ii) the rent officer has determined that a substantial part of the rent under the tenancy is fairly attributable to board and attendance and has notified the relevant authority of this in accordance with article 4C, 4D or 4E of the Rent Officers Order.

¹Words substituted in reg. 13C(5)(c) & inserted in reg. 13D(2)(b) by reg. 4(4)(a) & (b) of S.I. 2008/586 as from 7.4.08.

(6) In this regulation—

"the LHA date" means the date by reference to which the local housing allowance used to determine the maximum rent (LHA) was identified;

"registered social landlord" has the same meaning as in Part 1 of the Housing Act 1996^(a) or, in Scotland, sections 57 and 59 of the Housing (Scotland) Act 2001^(b).

Determination of a maximum rent (LHA)

13D.—(1) Subject to paragraph (3) to (11), the maximum rent (LHA) shall be the local housing allowance determined by the rent officer by virtue of article 4B(2A)^(c) or (4) of the Rent Officers Order which is applicable to—

- (a) the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date; and
- (b) the category of dwelling which applies at the relevant date in accordance with paragraph (2).

(2) The category of dwelling which applies is—

- (a) the category specified in paragraph 1(1)(a) of Schedule 3B to the Rent Officers Order (one bedroom shared accommodation) where—
 - (i) the claimant is a young individual who has no non-dependant residing with him and to whom paragraph 14 of Schedule 3 (severe disability premium) does not apply; or
 - (ii) paragraph (b) does not apply because neither sub-paragraph (b)(i) nor (ii) are satisfied in the claimant's case and neither the claimant nor his partner (where he has one) is a person to whom paragraph 14 of Schedule 3 (severe disability premium) applies, or to whom the circumstances in any of paragraphs (b) to (f) of the definition of young individual applies (certain care leavers);
- (b) except where paragraph (a)(i) applies, the category specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order (one bedroom self-contained accommodation) where that applies in the claimant's case at the relevant date in accordance with the size criteria [▶] ¹as set out in paragraph (3) [◀] and—
 - (i) the claimant (together with his partner where he has one) has the exclusive use of two or more rooms; or

(a) 1996 c. 52.

(b) 2001 asp 10.

(c) Article 4B was inserted by S.I. 2003/2398 and paragraphs (2A) and (4) inserted by S.I. 2007/2871.

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- (ii) the claimant (together with his partner where he has one) has the exclusive use of one room, a bathroom and toilet and a kitchen or facilities for cooking,

and in this sub-paragraph "room" means a bedroom or room suitable for living in except for a room which the claimant shares with any person other than a member of his household, a non-dependant of his, or a person who pays rent to him or his partner;

- (c) in any other case, the category which corresponds with the number of bedrooms to which the claimant is entitled in accordance with paragraph (3) ¹▶²up to a maximum of four◀ bedrooms◀.

¹Words added to para. (2)(c) and para. (7) omitted from reg. 13D by reg. 2(3) of S.I. 2009/614 as from 6.4.09.

²In reg. 13D, words in para. (2)(c) & para. (5) substituted, words added to para. (3) & paras. (6), (8) & (9) deleted by 2(6)(a)-(d) of S.I. 2010/2835 as from 1.4.11.

(3) The claimant shall be entitled to one bedroom for each of the following categories of occupier (and each occupier shall come within the first category only which applies to him)–

- (a) a couple (within the meaning of Part 7 of the Act);
- (b) a person who is not a child;
- (c) two children of the same sex;
- (d) two children who are less than 10 years old;
- (e) a child.

▶²and one additional bedroom in any case where the claimant or the claimant's partner is a person who requires overnight care (or in any case where both of them are).◀

(4) The relevant authority shall determine–

- (a) the cap rent (in accordance with the definition in paragraph (12)); and
- (b) whether the cap rent exceeds the applicable local housing allowance.

▶²(5) Where the applicable local housing allowance exceeds the cap rent, the maximum rent (LHA) shall be the cap rent.◀

(6) ▶²◀

(7) ▶¹◀

(8) ▶²◀

(9) ▶²◀

(10) The relevant authority shall apply to the rent officer for a board and attendance determination to be made in accordance with article 4C of the Rent Officers Order where–

- (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C; and
- (b) part of the rent under the tenancy appears to the relevant authority to be likely to be attributable to board and attendance.

(11) Where an application to a rent officer is required in accordance with paragraph (10) it shall be made within the same period following the day on which the relevant authority becomes obliged to determine a maximum rent (LHA) by virtue of regulation 13C as would be required if the application were to be made under regulation 14(1).

(12) In this regulation–

“cap rent” means the aggregate of such payments specified in regulation 12(1) (rent) which the claimant is liable to pay, or is treated as liable to pay by virtue of regulation 8 (circumstances in which a person is treated as liable to make payments in respect of a dwelling), subject to regulation 12B(3) (mixed use accommodation), (4) (more than one person liable to make payments) and (6) (discretion in relation to eligible rent);

“occupiers” means the persons whom the relevant authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant's household;

“relevant date” means, as the case may require—

- (a) the date of the claim to which the claim or relevant information referred to in regulation 13C(2)(a) or (b) relates;
- (b) the date of the change of dwelling, change which affects the category of dwelling, or date of death, to which a notification referred to in regulation 13C(2)(c) or (d) relates; or
- (c) the date on which the anniversary of the LHA date referred to in regulation 13C(3) falls.

“tenancy” includes

- (a) in Scotland, any other right of occupancy; and
- (b) in any other case, a licence to occupy premises,

and reference to a tenant, landlord or any other expression appropriate to a tenancy shall be construed accordingly.

Publication of local housing allowances

13E.—(1) A relevant authority shall take such steps as appear to it to be appropriate for the purpose of securing that information in relation to broad rental market areas falling in whole or in part within its area, and local housing allowances applicable to such broad rental market areas, is brought to the attention of persons who may be entitled to housing benefit from the authority.◀

►¹Requirement to refer to rent officers

14.—(1) Subject to the following provisions of this regulation, a relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions where—

- (a) it has received a claim on which rent allowance may be awarded and any of the circumstances specified in regulation 13C(5)(a) to (e) (rent allowance cases for which a maximum rent (standard local rent) is not to be determined) apply;
- (b) it has received relevant information regarding a claim on which rent allowance may be awarded and any of the circumstances specified in regulation 13C(5)(a) to (e) apply;
- (c) it has received a notification of a change relating to a rent allowance and a maximum rent (LHA) does not fall to be determined under regulation 13C (determination of a maximum rent (LHA));
- (d) it has received a notification of a change of dwelling and any of the circumstances specified in regulation 13C(5)(a) to (e) apply;
- (e) it has received, except in the case where any liability to make payments in respect of a dwelling would be to a housing authority, a request from a person ("the prospective occupier"), on a properly completed form approved for the purpose by the relevant authority, which includes the specified matters and any of the circumstances specified in regulation 13C(5)(a) to (d) apply;
- (f) 52 weeks have expired since it last made an application under sub-paragraph (a), (b), (c), (d) ►², (e) or (h)◀ in relation to the claim or award in question and—
 - (i) a maximum rent (LHA) determined under regulation 13D does not apply; and
 - (ii) a maximum rent (LHA) is not to be determined under regulation 13D; ►²◀
- (g) 52 weeks have expired since an application was made under sub-paragraph (f) or a previous application was made under this sub-paragraph, whichever last occurred, and—
 - (i) a maximum rent (LHA) determined under regulation 13D does not apply; and

¹Reg. 14 substituted by reg. 8 of S.I. 2007/2868 on or after 7.4.08. See reg. 1 to this S.I. for when to apply.

²In reg. 14(1), words substituted & deleted in sub-para. (f) & sub-para. (h) inserted by reg. 4(5)(a) & (b) of S.I. 2008/586 as from 7.4.08.

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¹In reg. 14(1), words substituted & deleted in sub-para. (g)(ii) & sub-para. (h) inserted by reg. 4(5)(a) & (b) of S.I. 2008/586 as from 7.4.08.

- (ii) a maximum rent (LHA) is not to be determined under regulation 13D.
▶¹or
 - (h) has received notification that any of the circumstances in regulation 13C(5) apply.◀
- (2) An application shall not be required under paragraph (1) where a claim, relevant information regarding a claim, notification or request relates to either–
- (a) a dwelling in a hostel if, during the period of 12 months ending on the day on which that claim, relevant information regarding a claim, notification or request is received by the relevant authority–
 - (i) a rent officer has already made a determination in the exercise of the Housing Act functions in respect of a dwelling in that hostel which is a similar dwelling to the dwelling to which the claim, relevant information regarding a claim, notification or request relates; and
 - (ii) there has been no change relating to a rent allowance that has affected the dwelling in respect of which that determination was made; or
 - (b) an "excluded tenancy" within the meaning of Schedule 2 (excluded tenancies).
- (3) The provision of information to the rent officer in accordance with regulation 114A(5) shall be treated as an application to the rent officer under paragraph (1).
- (4) Where a relevant authority receives a request pursuant to paragraph (1)(e) (request from prospective occupier) and it is a case where, by reason of paragraph (2) (hostels or excluded tenancies), an application to a rent officer is not required, the authority shall–
- (a) return it to the prospective occupier, indicating why no such application is required; and
 - (b) where it is not required by reason of either paragraph (2)(a) (hostels) of this regulation or paragraph 2 of Schedule 2 (cases where the rent officer has already made a determination), shall also send him a copy of that determination within 4 days of the receipt of that request by the authority.
- (5) Where an application to a rent officer is required by paragraph (1) it shall be made within 3 days, or as soon as practicable after that date, of–
- (a) the relevant authority receiving a claim on which rent allowance may be awarded;
 - (b) the relevant authority receiving relevant information regarding a claim on which rent allowance may be awarded;
 - (c) the relevant authority receiving a notification of a change relating to a rent allowance;
 - (d) the relevant authority receiving a notification of a change of dwelling; or
 - (e) the day on which the period mentioned in paragraph (1)(f) or (g) expired,
- except that, in the case of a request to which paragraph (1)(e) (request from prospective occupier) applies, the application shall be made within 2 days of the receipt of that request by the authority.
- (6) In calculating any period of days mentioned in paragraphs (4) or (5), no regard shall be had to a day on which the offices of the relevant authority are closed for the purposes of receiving or determining claims.
- (7) For the purpose of this regulation a dwelling in a hostel shall be regarded as similar to another dwelling in that hostel if each dwelling provides sleeping accommodation for the same number of persons.

(8) In this regulation—

“change relating to a rent allowance” means a change or increase to which paragraph 2(3)(a), (b), (c) ►¹, (d) or (f)◄ of Schedule 2 applies;

“prospective occupier” shall include a person currently in receipt of housing benefit in respect of a dwelling which he occupies as his home and who is contemplating entering into a new agreement to occupy that dwelling, but only where his current agreement commenced 11 months or more before the request under paragraph (1)(e);

“specified matters” means—

- (a) the signature of the prospective occupier;
- (b) the signature of the person to whom the prospective occupier would incur liability to make such payments;
- (c) a statement that the person in paragraph (b) agrees to the application being made for that determination; and
- (d) an indication that the prospective occupier is contemplating occupying the dwelling as his home and that if he does so, he is likely to claim housing benefit;

“tenancy” includes—

- (a) in Scotland, any other right of occupancy; and
 - (b) in any other case, a licence to occupy premises,
- and reference to a tenant, landlord or any other expression appropriate to a tenancy shall be construed accordingly;

►²◄◄

¹Words substituted in reg. 14(8), defn. of “change relating to a rent allowance” by reg. 2(7) of S.I. 2010/2835 as from 1.4.11.

²In reg. 14(8), defn. of “the Corporation” omitted by reg. 4(5)(c) of S.I. 2008/586 as from 7.4.08.

Reg. 14

These paragraphs continue to be reproduced as they remain in force in certain cases. See reg. 1 of S.I. 2007/2868 at page 8.3755 for details.

Requirement to refer to rent officers

14.—(1) Subject to the following provisions of this regulation, a relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions where—

- (a) it has received a claim on which rent allowance may be awarded; or
- (b) it has received relevant information regarding a claim on which rent allowance may be awarded; or
- (c) it has received a notification of a change relating to a rent allowance; or
- (d) it has received a notification of a change of dwelling; or
- (e) it has received, except in the case where any liability to make payments in respect of a dwelling would be to a housing authority, a request from a person (“the prospective occupier”), on a properly completed form approved for the purpose by the relevant authority, signifying that he is contemplating occupying a dwelling as his home and that if he does so, he is likely to claim housing benefit, but only where that form—
 - (i) is signed by the prospective occupier;
 - (ii) is countersigned by the person to whom the prospective occupier would incur liability to make such payments; and
 - (iii) indicates that the person countersigning agrees to the application being made for that determination; or
- (f) 52 weeks have elapsed since it last made an application under sub-paragraph (a), (b), (c), (d) or (e) above in relation to the claim or award in question; or
- (g) 52 weeks have elapsed since—
 - (i) an application was made under sub-paragraph (f) above; or
 - (ii) an application was made under this sub-paragraph,

whichever last occurred.



(4) An application shall not be required under paragraph (1) where a claim, relevant information regarding a claim, notification or request relates to either—

- (a) a dwelling in a hostel if, during the period of 12 months which ends on the day on which that claim, relevant information regarding a claim, notification or request is received by the relevant authority—
 - (i) a rent officer has already made a determination in the exercise of the Housing Act functions in respect of a dwelling in that hostel which is a similar dwelling to the dwelling to which the claim, relevant information regarding a claim, notification or request relates; and
 - (ii) there has been no change relating to a rent allowance that has affected the dwelling in respect of which that determination was made; or
- (b) an “excluded tenancy” within the meaning of Schedule 2 (excluded tenancies).

▶²(4A) The provision of information to the rent officer in accordance with ▶³regulation 114A(5)◀ shall be treated as an application to the rent officer under paragraph (1).◀

(5) Where a relevant authority receives a request pursuant to paragraph (1)(e) and it is a case where, by reason of paragraph (4), an application to a rent officer is not required, the authority shall—

¹Regs. 14(2) & (3) omitted by reg. 3(1)(a) of S.I. 2007/2868 as from 7.4.08.

²Reg. 14(4A) inserted by reg. 3(1)(b) of S.I. 2007/2868 as from 7.4.08.

³Words substituted in reg. 14(4A) by reg. 4(2)(a) of S.I. 2008/586 as from 7.4.08.

- (c) pursuant to section 2 of the 1973 Act in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations ¹◀; ²▶
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; ²▶ or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations; ◀

See reg. 14(1)(b) of S.I. 2010/1222 at page 11.7185 for details of modification of this reg. in certain situations.

- ▶³(cb) in respect of a person's participation in the Mandatory Work Activity Scheme; ◀
- ▶⁴(cc) in respect of a claimant's participation in the Employment, Skills and Enterprise Scheme; ◀
- (d) under an occupational pension scheme ⁵▶, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund◀ where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(a);
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(8) Where a claimant is in receipt of any benefit (other than housing benefit) under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the relevant authority shall treat the claimant as possessing such benefit at the altered rate—

- (a) in a case in which the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) ⁶▶ or (c)◀ (calculation of weekly amounts), from 1st April in that year;
- (b) in any other case, from the first Monday in April in that year,

to the date on which the altered rate is to take effect.

(9) Subject to paragraph (10), where—

- (a) a claimant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the relevant authority shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.

(10) Paragraph (9) shall not apply—

- (a) to a claimant who is engaged by a charitable or voluntary organisation or who is a volunteer if the relevant authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
- (b) in a case where the service is performed in connection with—
 - (i) the claimant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the claimant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations ¹▶; or

¹Words in reg. 42(7)(c) (iii) & 10(b)(i) omitted by reg. 6(4)(a) of S.I. 2008/698 as from 14.4.08.

²Word omitted in reg. 42(7)(c)(iii) and reg. 42(7)(c)(v) inserted by reg. 3(2) of S.I. 2009/480. See reg. 1 to this S.I. for relevant effective dates.

³Reg. 42(7)(cb) inserted by reg. 12 of S.I. 2011/688 as from 25.4.11.

⁴Reg. 42(7)(cc) inserted by reg. 12(1)(b) & (2) of S.I. 2011/917 as from 20.5.11.

⁵Words substituted in reg. 42(7)(d) by reg. 8(2)(c) of S.I. 2006/588 as from 6.4.06.

⁶Words inserted in reg. 42(8)(a) by reg. 8(2)(d) of S.I. 2006/588 as from 1.4.06.

(a) 1980 c. 46.

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- (ii) the claimant's or the claimant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme ►¹; or

¹Reg. 42(10)(c) & (10A) inserted by reg. 11(7) (a) of S.I. 2007/2618.

- (c) to a claimant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

(10A) In paragraph (10)(c) "work placement" means practical work experience which is not undertaken in expectation of payment. ◀

(11) Where a claimant is treated as possessing any income under any of paragraphs (1) to (8), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(12) Where a claimant is treated as possessing any earnings under paragraph (9) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 36 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings ►²◀ the basic rate of tax applicable to the assessment period less only the personal relief to which the claimant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the ►³►²basic◀ rate◀ of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.

²Words omitted & substituted in reg. 42(12)(a) by reg. 6(4)(a) & (b) of S.I. 2009/583 as from 6.4.09.

³Words in reg. 42(12)(a) substituted by reg. 11(7)(b) of S.I. 2007/2618 as from 1.10.07.

►⁴(12A) Paragraphs (1), (2), (6) and (9) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the claimant's participation in a service user group. ◀

⁴Reg. 42(12A) inserted by reg. 6(4)(b) of S.I. 2009/2655 as from 2.11.09.

(13) In paragraph (6) "rent" means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

SECTION 6

*Capital***Capital limit**

43. For the purposes of section 134(1) of the Act as it applies to housing benefit (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £16,000.

Calculation of capital

44.—(1) For the purposes of Part 7 of the Act (income-related benefits) as it applies to housing benefit, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 46 (income treated as capital).

- (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations ▶¹◀; ▶²◀
- (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; ▶²or
- (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;◀

See reg. 15(1)(b) of S.I. 2010/1222 at page 11.7185 for details of modifications of this reg. in certain situations.

- ▶³(bb) in respect of a person's participation in the Mandatory Work Activity Scheme;◀
- ▶⁴(bc) in respect of a claimant's participation in the Employment, Skills and Enterprise Scheme;◀
- (c) under an occupational pension scheme ▶⁵, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of Pension Protection Fund◀ where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(a);
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

¹Words omitted in reg. 49(4)(b)(iii) by reg. 6(4)(b) of S.I. 2008/698 as from 14.4.08.

²Words omitted and head (v) inserted in reg. 49(4) by reg. 3(2) of S.I. 2009/480 as from 5.10.09.

³Reg. 49(4)(bb) inserted by reg. 13(1)(b) & (2) of S.I. 2011/688 as from 25.4.11.

⁴Reg. 49(4)(bc) inserted by reg. 13(1)(b) & (2) of S.I. 2011/917 as from 20.5.11.

⁵Words in reg. 49(4)(c) substituted by reg. 8(3)(c) of S.I. 2006/588 as from 6.4.06.

(5) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 44 (calculation of capital) be disregarded; and
- (b) he shall, subject to paragraph (6), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(6) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (5) shall be disregarded.

(7) Where a claimant is treated as possessing capital under any of paragraphs (1) to (3) the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

(8) In paragraph (3) "rent" means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

Diminishing notional capital rule

50.—(1) Where a claimant is treated as possessing capital under regulation 49(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions,
 shall be reduced by an amount determined under paragraph (3);
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,
 shall be reduced by the amount determined under paragraph (4).

(a) 1980 c. 46.

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(2) This paragraph applies to a benefit week where the claimant satisfies the conditions that—

- (a) he is in receipt of housing benefit; and
- (b) but for regulation 49(1), he would have received an additional amount of housing benefit in that week.

(3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to the aggregate of—

- (a) the additional amount to which sub-paragraph (2)(b) refers;
- (b) where the claimant has also claimed council tax benefit, the amount of any council tax benefit or any additional amount of council tax benefit to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 39(1) of the Council Tax Benefit Regulations 2006 (notional capital);
- (c) where the claimant has also claimed income support, the amount of income support to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support Regulations (a) (notional capital); ▶¹◀
- (d) where the claimant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) ▶¹and
- (e) where the claimant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).◀

¹Word omitted in para. (3)(c) & para. (e) inserted by reg. 16(a)(i) & (ii) of S.I. 2008/1082 as from 27.10.08.

(4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to housing benefit in the relevant week but for regulation 49(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of housing benefit to which the claimant would have been entitled in the relevant week but for regulation 49(1) and, for the purposes of this sub-paragraph, if the relevant week is a week to which ▶²regulation 80(3)(a)◀ regulation 80(4)(a)

refers (calculation of weekly amounts), that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number of days in that week for which he was liable to make payments in respect of the dwelling he occupies as his home and multiplying the quotient so obtained by 7;

Words substituted in reg. 50(4)(a) continues to be reproduced as they remain in force in certain cases. See reg. 1 of S.I. 2007/2868 at page 8.3755 for details.

- (b) if the claimant would, but for regulation 39(1) of the Council Tax Benefit Regulations 2006, have been entitled to council tax benefit or to an additional amount of council tax benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no council tax benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount of council tax benefit to which he would have been entitled;

and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the council tax benefit to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;

- (c) if the claimant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the benefit

(a) S.I. 1987/1967; the relevant amending Instrument is S.I. 1990/1776.

- (b) make such payments to the landlord where the authority is satisfied that it is nonetheless in the best interests of the claimant and his family that the payments be made.

►¹(3A) In a case where a relevant authority has determined a maximum rent in accordance with regulation 13D—

- (a) sub-paragraphs (a) and (b) of paragraph (1) shall not apply; and
 (b) payment of a rent allowance to a person's landlord may be made where—
- (i) the relevant authority considers that the claimant is likely to have difficulty in relation to the management of his financial affairs;
 (ii) the relevant authority considers that it is improbable that the claimant will pay his rent; or
 (iii) a direct payment has previously been made by the relevant authority to the landlord in accordance with regulation 95 in respect of the current award of housing benefit. ►²or
 (iv) the relevant authority considers that it will assist the claimant in securing or retaining a tenancy. ◀

¹Paras. (3A) & (3B) added by reg. 17(2)(c) of S.I. 2007/2868 on or after 7.4.08. See reg. 1 to this S.I. for when to apply.

²Reg. 96(3A)(iv) inserted & reg. 96(4) substituted by reg. 2(8)(a)-(b) of S.I. 2010/2835 as from 1.4.11.

(3B) Where the relevant authority suspects that the grounds in paragraph (3A)(b)(i) or (ii) apply and is considering whether to make payments on one of those grounds, it may make a payment of a rent allowance to the person's landlord for a period not exceeding 8 weeks. ◀

►²(4) In this regulation—

“landlord” has the same meaning as in regulation 95 and paragraph (2) of that regulation shall have effect for the purposes of this regulation; and

“tenancy” includes—

- (a) in Scotland, any other right of occupancy; and
 (b) in England and Wales, a licence to occupy premises. ◀

Payment on death of the person entitled

97.—(1) Subject to paragraphs (3) and (5) where the person entitled to an allowance has died the relevant authority shall make payment either to his personal representative or, where there is none, his next of kin if aged 16 or over.

(2) For the purposes of paragraph (1) “next of kin” means in England and Wales the persons who would take beneficially on an intestacy and in Scotland the persons entitled to the moveable estate on intestacy.

(3) A payment under paragraph (1) or (5) shall not be made unless the landlord, the personal representative or the next of kin, as the case may be, makes written application for the payment of any sum of benefit to which the deceased was entitled, and such written application is sent to or delivered to the relevant authority at its designated office within 12 months of the deceased's death or such longer period as the authority may allow in any particular case.

(4) The authority may dispense with strict proof of title of any person claiming under paragraph (3) and the receipt of such a person shall be a good discharge to the authority for any sum so paid.

(5) Subject to paragraph (3), where the relevant authority determines, before the death of the person first mentioned in paragraph (1), that a rent allowance was payable to his landlord in accordance with regulation 95 or 96, that authority shall pay to that landlord so much of that allowance as does not exceed the amount of rent outstanding at the date of the person's death.

Offsetting

98.—(1) Where a person has been paid a sum of housing benefit under a decision which is subsequently revised or further revised, any sum paid in respect of a period covered by a subsequent decision shall be offset against arrears of entitlement under

the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly paid on account of them.

(2) Where an amount has been deducted under regulation 104(1) (sums to be deducted in calculating recoverable overpayments) an equivalent sum shall be offset against any arrears of entitlement under the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly paid on account of them.

(3) No amount may be offset under paragraph (1) which has been determined to be an overpayment within the meaning of regulation 99 (meaning of overpayment).

PART 13

Overpayments

Meaning of overpayment

99. In this Part, “overpayment” means any amount which has been paid by way of housing benefit and to which there was no entitlement under these Regulations (whether on the initial decision ►¹or as subsequently revised or superseded or further revised or superseded◄) and includes any amount paid on account under regulation 93 (payment on account of a rent allowance) which is in excess of the entitlement to housing benefit as subsequently decided.

¹Words in reg. 99 & 100(2) & (3) substituted by reg. 2 & 4 of S.I. 2005/2904 as from 10.4.06.

*See page 8.2501.

Recoverable overpayments

100.—(1) Any overpayment, except one to which paragraph (2) applies, shall be recoverable.

(2) Subject to paragraph (4) this paragraph applies to an overpayment ►¹which arose in consequence of◄ an official error where the claimant or a person acting on his behalf or any other person to whom the payment is made could not, at the time of receipt of the payment or of any notice relating to that payment, reasonably have been expected to realise that it was an overpayment.

(3) In paragraph (2), “overpayment ►¹which arose in consequence of an official error◄” means an overpayment caused by a mistake made whether in the form of an act or omission by—

- (a) the relevant authority;
- (b) an officer or person acting for that authority;
- (c) an officer of—
 - (i) the Department for Work and Pensions; or
 - (ii) Revenue and Customs, acting as such; or
- (d) a person providing services to the Department for Work and Pensions or to the Commissioners for Her Majesty’s Revenue and Customs,

where the claimant, a person acting on his behalf or any other person to whom the payment is made, did not cause or materially contribute to that mistake, act or omission.

(4) Where in consequence of an official error, a person has been awarded rent rebate to which he was not entitled or which exceeded the benefit to which he was entitled, upon the award being revised ►²or superseded◄ any overpayment of benefit, which remains credited to him by the relevant authority in respect of a period after the date on which the revision ►²or supersession◄ took place, shall be recoverable.

²Words in reg. 100(4) inserted by reg. 4(4) of S.I. 2005/2904 as from 10.4.06.

*See page 8.2501.

Person from whom recovery may be sought

101.—(1) For the purposes of section 75(3)(a) of the Administration Act (a) (prescribed circumstances in which an amount recoverable shall not be recovered from the person to whom it was paid), the prescribed circumstance is—

- (a) housing benefit has been paid in accordance with regulation 95 (circumstances in which payment is to be made to the landlord) or regulation 96 (circumstances in which payment may be made to a landlord);
- (b) the landlord has notified the relevant authority or the Secretary of State in writing that he suspects that there has been an overpayment;
- ▶¹(bb) the relevant authority is satisfied that the overpayment did not occur as a result of any change of dwelling occupied by the claimant as his home; ◀
- (c) it appears to the relevant authority that, on the assumption that there has been an overpayment—
 - (i) there are grounds for instituting proceedings against any person for an offence under section 111A or 112(1) of the Administration Act (b) (dishonest or false representations for obtaining benefit); or
 - (ii) there has been a deliberate failure to report a relevant change of circumstances contrary to the requirement of regulation 88 (duty to notify a change of circumstances) and the overpayment occurred as a result of that deliberate failure; and
- (d) the relevant authority is satisfied that the landlord—
 - (i) has not colluded with the claimant so as to cause the overpayment;
 - (ii) has not acted, or neglected to act, in such a way so as to contribute to the period, or the amount, of the overpayment.

▶²(2) For the purposes of section 75(3)(b) of the Administration Act (recovery from such other person, as well as or instead of the person to whom the overpayment was made), where recovery of an overpayment is sought by a relevant authority—

- (a) subject to paragraph (1) and where sub-paragraph (b) or (c) does not apply, the overpayment is recoverable from the claimant as well as the person to whom the payment was made, if different;
- (b) in a case where an overpayment arose in consequence of a misrepresentation of or a failure to disclose a material fact (in either case, whether fraudulently or otherwise) by or on behalf of the claimant, or by or on behalf of any person to whom the payment was made, the overpayment is only recoverable from any person who misrepresented or failed to disclose that material fact instead of, if different, the person to whom the payment was made; or
- (c) in a case where an overpayment arose in consequence of an official error where the claimant, or a person acting on the claimant's behalf, or any person to whom the payment was paid, or any person acting on their behalf, could reasonably have been expected, at the time of receipt of the payment or of any notice relating to that payment, to realise that it was an overpayment, the overpayment is only recoverable from any such person instead of, if different, the person to whom the payment was made. ◀

▶³(2A) Where an overpayment is made in a case where a relevant authority has determined a maximum rent (LHA) in accordance with regulation 13D (determination of a maximum rent (LHA)), and the housing benefit payable exceeds the amount which the claimant is liable to pay his landlord by way of rent, the relevant authority must not recover from the landlord more than the landlord has received. ◀

(3) For the purposes of ▶³paragraphs (1) and (2A) ◀, “landlord” shall have the same meaning as it has for the purposes of regulation 95.

▶⁴(3A) For the purposes of ▶²paragraph (2)(c) ◀, “overpayment arose in consequence of an official error” shall have the same meaning as in regulation 100(3) above. ◀

(4) ▶²◀.

(a) Subsection (3) was substituted by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 71.

(b) Section 111A was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), section 13; section 112(1) was amended by paragraph 4(2) of Schedule 1 to the same Act, by the Child Support, Pensions and Social Security Act 2000, section 67 and Schedule 6, paragraph 6

¹Words in sub-para. (bb) of reg. 101 inserted by reg. 6(2) of S.I. 2005/2904 as from 10.4.06.

*See page 8.2501.

²Reg. 101(2) substituted, words substituted in para. (3A) & para. (4) omitted by reg. 4(2)(a), (b) & (c) of S.I. 2008/2824 as from 6.4.09.

³Reg. 101(2A) inserted and words substituted in para. (3) by reg. 2(2)(a) & (b) of S.I. 2008/586 as from 7.4.08.

⁴Para. (3A) inserted by reg. 6(3)-(5) of S.I. 2005/2904 as from 10.4.06.

* See page 8.2501.

Reg. 102

Method of recovery

¹Words in reg. 102(1), (2) & (3) substituted and words added to reg. 102(2) by regs. 7(2) & (3) of S.I. 2005/2904 as from 10.4.06.

*See page 8.2501.

²Words substituted in reg. 102(1), para. (1ZA) added & words inserted in reg. 102(2) & (3) by reg. 4(3)(a)-(c) of S.I. 2008/2824 as from 6.4.09.

³Reg. 102(1A) & words in sub-para. (2) omitted by reg. 2(2)(a) & (b) of S.I. 2009/2608. See reg. 1(3) to this S.I. for the relevant commencement date.

⁴Words inserted in reg. 102(4) & omitted in reg. 102(5) and reg. 104A inserted by reg. 2(2)(c)-(d) & (3) of S.I. 2009/2608. See reg. 1(3) to this S.I. for the relevant commencement date.

102.—(1) Without prejudice to any other method of recovery, ►¹a relevant authority◄ may recover a recoverable overpayment from any person referred to in regulation 101 (persons from whom recovery may be sought) by deduction from any housing benefit to which that person is entitled (including arrears of entitlement after offsetting under regulation 98 (offsetting)) or, where it is unable to do so, may request the Secretary of State to recover any recoverable overpayment from the benefits prescribed in ►²regulation 105(1)◄ (recovery of overpayments from prescribed benefits).

►²(1ZA) Where an overpayment is recoverable from a claimant who has one or more partners, a relevant authority may recover the overpayment by deduction from any housing benefit payable to the claimant's partner, or where it is unable to do so, may request the Secretary of State to recover any recoverable overpayment from the benefits prescribed in regulation 105(1B) (recovery of overpayments from prescribed benefits), provided that the claimant and that partner were a couple both at the time of the overpayment and when the deduction is made.◄

(1A) ►³◄

(2) Subject to paragraphs ►³◄ (4) and (5), where ►¹a relevant authority◄ makes deductions permitted by paragraph (1) ►²or (1ZA)◄ from the housing benefit it is paying to a claimant ►²or a claimant's partner◄ (other than deductions from arrears of entitlement), the deduction in respect of a benefit week shall be—

- (a) in a case to which paragraph (3) applies, not more than the amount there specified; and
- (b) in any other case, not more than three times five per cent. of the personal allowance for a single claimant aged not less than 25, that five per cent. being, where it is not a multiple of five pence, rounded to the next higher such multiple.

(3) Where ►¹a relevant authority◄ makes deductions from housing benefit it is paying to a claimant ►²or a claimant's partner, where the claimant has◄, in respect of the whole or part of the recoverable overpayment—

- (a) been found guilty of an offence whether under a statute or otherwise;
- (b) made an admission after caution of deception or fraud for the purpose of obtaining relevant benefit; or
- (c) agreed to pay a penalty under section 115A of the Administration Act(a) (penalty as an alternative to prosecution) and the agreement has not been withdrawn,

the amount deducted under paragraph (2) shall be not more than four times five per cent. of the personal allowance for a single claimant aged not less than 25, but where that five per cent. is not a multiple of 10 pence, it shall be rounded to the nearest 10 pence or, if it is a multiple of 5 pence but not of 10 pence, the next higher multiple of 10 pence.

(4) Where, in the calculation of housing benefit, the amount of earnings or other income falling to be taken into account is reduced by reason of paragraphs 3 to 10 of Schedule 4 (sums to be disregarded in the calculation of earnings) ►⁴, or paragraph 10A of that Schedule in a case where the amount of earnings to be disregarded under that paragraph is the amount referred to in regulation 45(2) of the Employment and Support Allowance Regulations or regulation 17(2) of the Social Security (Incapacity for Work) (General) Regulations 1995(b),◄ or paragraph 14 or 15 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings), the deduction under paragraph (2) may be increased by not more than half the amount of the reduction.

(5) No deduction made under this regulation ►²◄ shall be applied so as to reduce the housing benefit in respect of a benefit week to less than 50 pence.

(a) Section 115A was inserted by the Social Security Administration (Fraud) Act (c. 47), section 15.

(b) S.I. 1995/311. Relevant amending instruments are S.I. 2006/757, 2008/2365 and 2008/2683.

- (b) where the claim or award relates to mooring charges for a houseboat, or payments in respect of the site on which a caravan or mobile home stands, the mooring or plot number and the address of the mooring or site, including the postcode;
- (c) whether the dwelling is—
 - (i) a detached house;
 - (ii) a semi-detached house;
 - (iii) a terraced house;
 - (iv) a maisonette;
 - (v) a detached bungalow;
 - (vi) a semi-detached bungalow;
 - (vii) a flat in a house;
 - (viii) a flat in a block;
 - (ix) a flat over a shop;
 - (x) a bedsit or rooms or a studio flat;
 - (xi) a hostel;
 - (xii) a caravan, mobile home or houseboat;
 - (xiii) board and lodgings;
 - (xiv) a hotel;
 - (xv) a care home;
 - (xvi) an independent hospital; or
 - (xvii) some other description of dwelling, and if so what;
- (d) whether the dwelling has central heating, a garden, a garage or a parking space;
- (e) how many rooms suitable for living in there are—
 - (i) in the dwelling;
 - (ii) in the dwelling which the claimant shares with any person other than a member of his household, a non-dependant of his, or a person who pays rent to him or his partner;
- (f) how many bedsitting rooms there are in the categories (e)(i) and (ii);
- (g) how many bedrooms there are in the categories (e)(i) and (ii);
- (h) how many bathrooms or toilets there are in the categories (e)(i) and (ii); and
- (i) such other information as the rent officer may reasonably require to make a determination.

(8) In relation to the tenancy to which the claim or award relates, the relevant authority shall provide the following information—

- (a) the information referred to in paragraphs (3)(d) to (f) and (4);
- (b) if the tenancy is furnished, and if so, to what extent;
- (c) the rental period, whether calendar monthly, four weekly, weekly or some other period;
- (d) the length of the tenancy;
- (e) when the tenancy began and, if appropriate, when it ended;
- (h) the landlord's or letting agent's name;
- (i) the landlord's or letting agent's business address;
- (j) whether the landlord is a housing association¹, private registered provider of social housing² or registered social landlord; and
- (k) such other information as the rent officer may reasonably require to make a determination.

¹Words added to reg. 114A(8)(j) by para. 53 to Sch. 1 of S.I. 2010/671 as from 1.4.10.

(9) In relation to the claimant and the other occupiers of the dwelling to which the claim or award relates, the relevant authority shall provide the following information—

- (a) such information regarding the relationship of the claimant to the occupiers and the occupiers to each other, as is necessary for the rent officer to make the determination;

Regs. 114A-115

¹Reg. 114A(9)(ca) added by reg. 2(9) of S.I. 2010/2835 as from 1.4.11.

- (b) the age and sex of each occupier under 18;
- (c) whether the claimant is or may be a young individual;
- ▶¹(ca) whether the claimant or the claimant's partner is a person who requires overnight care;◀ and
- (d) any other information that is relevant to the rent officer in making the determination, including visits to the dwelling.

(10) Where a rent officer serves a notice under article 5 (insufficient information) of the Rent Officers Order the relevant authority shall supply the further information required under this regulation, or confirm whether information already supplied is correct and, if it is not, supply the correct information.

(11) Where the relevant authority refers a case to the rent officer in accordance with regulation 14 as in force before the coming into force of regulation 8 of the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007(a), it shall notify the rent officer that the referral is made in accordance with regulation 14 as in force before the coming into force of regulation 8 of those Regulations.

(12) In this regulation—
“tenancy” includes—

- (a) in Scotland, any other right of occupancy; and
- (b) in any other case, a licence to occupy premises,

and reference to a tenant, landlord or any other expression appropriate to a tenancy shall be construed accordingly;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(b) in the jurisdiction in which the area of the relevant authority is situated.◀

²Reg. 114 omitted by reg. 3(3) of S.I. 2007/2868 as from 7.4.08.

³Reg. 115 substituted by reg. 2(3) of S.I. 2008/959 as from 6.10.08.

114. ▶²◀

▶³Information to be supplied by an authority to another authority

115.—(1) This regulation applies for the purposes of section 128A of the Administration Act (duty of an authority to disclose information to another authority).

(2) Information is to be disclosed by one authority to another where—

- (a) there is a mover who is or was in receipt of housing benefit from Authority “A”;
- (b) either the mover's new dwelling is within the area of another Authority “B” or the mover is liable or treated as liable to make payments in respect of the new dwelling to housing authority B; and
- (c) the mover is entitled to an extended payment in accordance with regulation 72.

(3) Authority A shall disclose to Authority B—

- (a) the amount of the extended payment calculated in accordance with regulation 72C(2) (amount of extended payment - movers);
- (b) the date that entitlement to the extended payment will commence or has commenced;
- (c) the date that entitlement to the extended payment ceased or will cease;
- (d) the date of the move from Authority A to Authority B;
- (e) where the extended payment will be paid by Authority A to Authority B in accordance with regulation 72C(3)(a) (payment of extended payment to the second authority)—

(a) S.I. 2007/2868.

(b) 1971 c. 80.

SCHEDULE 1

Regulation 11

INELIGIBLE SERVICE CHARGES

PART 1

*Service charges other than for fuel***Ineligible service charges**

1. The following service charges shall not be eligible to be met by housing benefit—

- (a) charges in respect of day-to-day living expenses including, in particular, all provision of—
 - (i) subject to paragraph 2 meals (including the preparation of meals or provision of unprepared food);
 - (ii) laundry (other than the provision of premises or equipment to enable a person to do his own laundry);
 - ▶¹(iii) leisure items such as either sports facilities (except a children's play area), or television rental, licence and subscription fees (except radio relay charges and charges made in respect of the conveyance and installation and maintenance of equipment for the conveyance of a television broadcasting service);◀
 - (iv) cleaning of rooms and windows except cleaning of—
 - (aa) communal areas; or
 - (bb) the exterior of any windows where neither the claimant nor any member of his household is able to clean them himself, where a payment is not made in respect of such cleaning by a local authority (including, in relation to England, a county council) or the ▶²Welsh Ministers◀ to the claimant or his partner, or to another person on their behalf; and
 - (v) transport;
- (b) charges in respect of—
 - (i) the acquisition of furniture or household equipment; and
 - (ii) the use of such furniture or equipment where that furniture or household equipment will become the property of the claimant by virtue of an agreement with the landlord;
- (c) charges in respect of the provision of an emergency alarm system;
- (d) charges in respect of medical expenses (including the cost of treatment or counselling related to mental disorder, mental handicap, physical disablement or past or present alcohol or drug dependence);
- (e) charges in respect of the provision of nursing care or personal care (including assistance at meal-times or with personal appearance or hygiene);
- (f) charges in respect of general counselling or of any other support services, whoever provides those services;
- (g) charges in respect of any services not specified in sub-paragraphs (a) to (f) which are not connected with the provision of adequate accommodation.

¹Para. 1(a)(iii) substituted by reg. 6 of S.I. 2007/719 as from 2.4.07.

²Words substituted in para. 1(a)(iv) by reg. 5(5) of S.I. 2008/3157 as from 5.1.09.

Amount ineligible for meals

2.—(1) Where a charge for meals is ineligible to be met by housing benefit under paragraph 1, the amount ineligible in respect of each week shall be the amount specified in the following provisions of this paragraph.

(2) Subject to sub-paragraph (4), where the charge includes provision for at least three meals a day, the amount shall be—

Sch. 1

¹Amounts in para. 2 of Sch. 1 substituted by art. 20(4) of S.I. 2011/821 as from 1.4.11. See art. 1(2)(j) to the S.I. for when to apply.

- (a) for a single claimant, ►¹£24.05◄;
 - (b) if the claimant is a member of a family—
 - (i) for the claimant and for each member of his family aged 16 or over, ►¹£24.05◄;
 - (ii) for each member of his family under age 16, ►¹£12.15◄.
- (3) Except where sub-paragraph (5) applies and subject to sub-paragraph (4), where the charge includes provision for less than three meals a day, the amount shall be—
- (a) for a single claimant, ►¹£16.00◄;
 - (b) if the claimant is a member of a family—
 - (i) for the claimant and for each member of his family aged 16 or over, ►¹£16.00◄;
 - (ii) for each member of his family under age 16, ►¹£8.05◄.
- (4) For the purposes of sub-paragraphs (2)(b) and (3)(b), a person attains the age of 16 on the first Monday in September following his 16th birthday.
- (5) Where the charge for meals includes the provision of breakfast only, the amount for the claimant and, if he is a member of a family, for the claimant and for each member of his family, shall be ►¹£2.95◄.
- (6) Where a charge for meals includes provision for meals for a person who is not a member of the claimant's family sub-paragraphs (2) to (5) shall apply as if that person were a member of the claimant's family.
- (7) For the avoidance of doubt where the charge does not include provision for meals for a claimant or, as the case may be, a member of his family, sub-paragraphs (2) to (5) shall not apply in respect of that person.

Amount of ineligible charges

3.—(1) Subject to paragraph 2 where an ineligible service charge is not separated from or separately identified within other payments made by the occupier in respect of the dwelling, the appropriate authority shall apportion such charge as is fairly attributable to the provision of that service, having regard to the cost of comparable services and such portion of those payments shall be ineligible to be met by housing benefit.

(2) Subject to paragraph 2, where the relevant authority considers that the amount of any ineligible service charge which is separately identified within other payments made by the occupier in respect of the dwelling is unreasonably low having regard to the service provided, it shall substitute a sum for the charge in question which it considers represents the value of the services concerned and the amount so substituted shall be ineligible to be met by housing benefit.

(3) In sub-paragraph (2) the expression “ineligible service charge” includes any service charge which does not qualify as a periodical payment under regulation 12(1)(e) (rent).

(4) In any other case, the whole amount of the ineligible service charge shall be ineligible to be met by housing benefit.

Excessive service costs

4. Subject to paragraph 2, where the relevant authority considers that the amount of a service charge to which regulation 12(1)(e) (rent) applies is excessive in relation to the service provided for the claimant or his family, having regard to the cost of comparable services, it shall make a deduction from that charge of the excess and the amount so deducted shall be ineligible to be met by housing benefit.

PART 2

Payments in respect of fuel charges

5. A service charge for fuel except a charge in respect of services for communal areas shall be ineligible to be met by housing benefit.

6.—(1) Where a charge is ineligible to be met by housing benefit under paragraph 5—

- (a) in the calculation of entitlement to a rent rebate; or
- (b) in the calculation of entitlement to a rent allowance if the amount of the charge is specified or is otherwise readily identifiable (except where the amount of the charge is unrealistically low in relation to the fuel provided or the charge cannot readily be distinguished from a charge for a communal area),

the amount ineligible to be met by housing benefit shall be the full amount of the service charge.

(2) In any other case, subject to sub-paragraphs (3) and (4) and paragraph 7, the amount ineligible to be met by housing benefit shall be the following amounts in respect of each week—

- (a) for heating (other than hot water) ►¹£21.55◄;
- (b) for hot water ►¹£2.50◄;
- (c) for lighting ►¹£1.75◄;
- (d) for cooking ►¹£2.50◄.

¹Amounts in para. 6(2)(a)-(d) remains unchanged as from 1.4.11 by art. 20(5)(a)-(c) of S.I. 2011/821. See art. 1(2)(j) for when to apply.

(3) Where the accommodation occupied by the claimant or, if he is a member of a family, by the claimant and the members of his family, consists of one room only, the amount ineligible to be met by housing benefit in respect of each week where heating only is, or heating and either hot water or lighting (or both) are, provided, shall be one-half of the aggregate of the amounts specified in sub-paragraphs (2)(a), (b) and (c).

(4) In a case to which sub-paragraph (2) or (3) applies, if a claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, the amount ineligible to be met by housing benefit under this paragraph shall be that estimated amount.

7.—(1) Where rent is payable other than weekly, any amount ineligible to be met by housing benefit which is specified in this Schedule as a weekly amount shall—

- (a) where rent is payable in multiples of a week, be multiplied by the number equal to the number of weeks in respect of which it is payable; or
- (b) in any other case, be divided by 7 and multiplied by the number of days in the period to be used by the relevant authority for the purpose of calculating the claimant's weekly eligible rent under regulation 80 (calculation of weekly amounts).

(2) In a case to which regulation 81 applies (rent free periods), any amount ineligible to be met by housing benefit which is specified in this Schedule as a weekly amount shall, where appropriate, be converted in accordance with sub-paragraph (1) and shall—

- (a) where rent is payable weekly, or in multiples of a week, be multiplied by 52 or 53, whichever is appropriate, and divided by the number equal to the number of weeks in that 52 or 53 week period in respect of which he is liable to pay rent; or
- (b) in any other case, be multiplied by 365 or 366, whichever is appropriate, and divided by the number of days in that 365 or 366 day period in respect of which he is liable to pay rent.

Schs. 1-2

8. In this Schedule—

“communal areas” mean areas (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation;
“fuel” includes gas and electricity and a reference to a charge for fuel includes a charge for fuel which includes an amount in respect of the facility of providing it other than a specified amount for the provision of a heating system.

¹Sch. 2 substituted by reg. 18 of S.I. 2007/2868 on or after 7.4.08. See reg. 1 to this S.I. for when to apply.

►¹SCHEDULE 2

Regulation 14

Excluded tenancies

1. An excluded tenancy is any tenancy to which any of the following paragraphs applies.

2.—(1) Subject to the following sub-paragraphs, where a rent officer has made a determination, which relates to the tenancy in question or any other tenancy of the same dwelling this paragraph applies to—

- (a) the tenancy in respect of which that determination was made; and
- (b) any other tenancy of the same dwelling on terms which are substantially the same, other than the term relating to the amount of rent, as those terms were at the time of that determination or, if earlier, at the end of the tenancy.

(2) For the purposes of any claim, notification, request or application under regulation 14(1) (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to a rent officer’s determination made in consequence of an earlier claim, notification, request or application (“the earlier application”) where—

- (a) the earlier and later applications were made in respect of the same claimant or different claimants; and
- (b) the earlier application was made more than 52 weeks before the later application was made.

(3) Sub-paragraph (1) shall not apply where subsequent to the making of the determination mentioned in that sub-paragraph—

- (a) the number of occupiers of the dwelling has changed and that dwelling is not in a hostel;
- (b) there has been a substantial change in the condition of the dwelling (including the making of improvements) or the terms of the tenancy other than a term relating to rent;
- (c) there has been a rent increase under a term of the tenancy and the term under which that increase was made was either included in the tenancy at the time when the application for that determination was made (or was a term substantially the same as such a term) and that determination was not made under paragraph 1(2), 2(2) or 3(3) of Schedule 1 to the Rent Officers Order;
- (d) in a case where the rent officer has made a determination under paragraph 2(2) of Schedule 1 to the Rent Officers Order (size and rent determinations), but since the date of the application for that determination—
 - (i) a child, who is a member of the household occupying the dwelling, has attained the age of 10 years; or
 - (ii) a young person, who is a member of the household occupying that dwelling, has attained the age of 16 years; or
 - (iii) there is a change in the composition of the household occupying the dwelling;
- (e) the claimant is a young individual, except in a case where the determination mentioned in sub-paragraph (1) was, or was made in conjunction with, a determination of a single room rent pursuant to paragraph 5 of Schedule 1 to the Rent Officers Order on or after 2nd July 2001.

Sch. 2

- ▶¹(f) the claimant or the claimant's partner becomes or ceases to be a person who requires overnight care where that affects the size criteria, as set out in Schedule 2 to the Rent Officers Order, applicable in the claimant's case.◀
- ▶²3.—(1) Subject to ▶³sub-paragraphs (1A) and (2),◀ this paragraph applies where the landlord is—
- (a) a registered housing association;
 - (b) a county council, with regard to gypsies' and travellers' caravan or mobile home sites and caravans or mobile homes provided on those sites; or
 - (c) a housing authority, with regard to caravan or mobile home sites or houseboat moorings, payments in respect of which are to take the form of a rent allowance in accordance with regulation 91A(3).
- ▶³(1A) In relation to a profit-making registered provider of social housing, sub-paragraph (1)(a) only applies to its social housing (within the meaning of sections 68 to 77 of the Housing and Regeneration Act 2008).◀
- (2) Sub-paragraph (1) does not apply where the local authority considers that—
- (a) the claimant occupies a dwelling larger than is reasonably required by the claimant and any others who occupy that dwelling (including any non-dependants of the claimant and any person paying rent to the claimant); or
 - (b) the rent payable for that dwelling is unreasonably high.
- (3) Where the circumstances set out in head (a) or (b) of sub-paragraph (2) exist, the authority must state this in their application for a determination.
- (4) In this Schedule "gypsies and travellers" means—
- (a) persons with a cultural tradition of nomadism or of living in a caravan; and
 - (b) all other persons of a nomadic habit of life, whatever their race or origin, including—
 - (i) such persons who, on grounds only of their own or their family's or dependant's education or health needs or old age, have ceased to travel temporarily or permanently; and
 - (ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such).◀
4. This paragraph applies to a tenancy entered into before—
- (a) in Scotland, 2nd January 1989; and
 - (b) in any other case, 15th January 1989.
5. This paragraph applies to a regulated tenancy within the meaning of—
- (a) in Scotland, the Rent (Scotland) Act 1984(a); and
 - (b) in any other case, the Rent Act 1977(b).
6. This paragraph applies to a housing association tenancy which—
- (a) in Scotland, is a tenancy to which Part 6 of the Rent (Scotland) Act 1984 applies; and
 - (b) in any other case, is a housing association tenancy to which Part 6 of the Rent Act 1977 applies.
7. This paragraph applies to a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976(c).
8. This paragraph applies to a tenancy at a low rent within the meaning of Part 1 of the Landlord and Tenant Act 1954(d) or Schedule 10 to the Local Government and Housing Act 1989(e).

¹Para. 2(3)(f) added to Sch. 2 by reg. 2(10) of S.I. 2010/2835 as from 1.4.11.

²Para. 3 of Sch. 2 substituted by reg. 2(3) of S.I. 2008/2824 as from 6.4.09.

³Words substituted in para. 3(1) of Sch. 2 & para. 3(1A) inserted by Sch. 1, paras. 54 & 55 of S.I. 2010/671 as from 1.4.10.

(a) 1984 c. 58.

(b) 1977 c. 42.

(c) 1976 c. 80.

(d) 1954 c. 56.

(e) 1989 c. 42.

Sch. 2

¹Words in para. 9 of Sch. 2 substituted by reg. 6(7) of S.I. 2008/2767 as from 17.11.08.

9. This paragraph applies to a tenancy of any dwelling which is a bail hostel or probation hostel approved by the Secretary of State under ¹section 13 of the Offender Management Act 2007¹

10. This paragraph applies to a tenancy of a housing action trust established under Part 3 of the Housing Act 1988(a).

11.—(1) Subject to sub-paragraphs (2) and (3) this paragraph applies to a tenancy—

- (a) in respect of a dwelling comprised in land which has been disposed of under section 32 of the Housing Act 1985(b) or section 12 of the Housing (Scotland) Act 1987(c);
- (b) in respect of a dwelling comprised in land which has been disposed of with the consent required by section 43 of the Housing Act 1985 or section 12 of the Housing (Scotland) Act 1987;
- (c) in respect of which the fee simple estate has been acquired, under the right conferred by Chapter 2 of Part 1 of the Housing Act 1996(d), otherwise than from a housing action trust within the meaning of Part 3 of the Housing Act 1988(e), or in respect of which the house has been acquired under the right conferred by Part 3 of the Housing (Scotland) Act 1988(f); or
- (d) in respect of a dwelling disposed of under the New Towns (Transfer of Housing Stock) Regulations 1990(g) to a person who is an approved person for the purposes of disposal under those Regulations or in respect of a dwelling disposed of pursuant to powers contained in the New Towns (Scotland) Act 1968(h) to a housing association.

(2) This paragraph shall not apply to a tenancy to which sub-paragraph (1) refers if—

- (a) there has been an increase in rent since the disposal or acquisition, as the case may be, occurred; and
- (b) the local authority stated in the application for determination that—
 - (i) the claimant occupies a dwelling larger than is reasonably required by him and any others who occupy that dwelling (including any non-dependant of his and any person paying rent to him); or
 - (ii) the rent payable for that dwelling is unreasonably high.

(3) Where the disposal or acquisition, as the case may be, took place on or after 7th October 2002, sub-paragraph (2)(b) shall apply to a tenancy to which sub-paragraph (1) refers as if head (i) were omitted.

12. This paragraph applies to a shared ownership tenancy.

13. In this Schedule, “rent” shall be construed in accordance with paragraph (8) of regulation 14 (interpretation of “tenancy” and other expressions appropriate to a tenancy) and, subject to that paragraph, has the same meaning—

- (a) in Scotland, as in section 25 of the Housing (Scotland) Act 1988, except that the reference to the house in subsection (3) shall be construed as a reference to the dwelling;

(a) 1988 c. 50.

(b) 1985 c. 68; section 32 was amended by section 140 of and Schedule 7 to the Housing Act 1988 (c. 50), section 227 of and Schedule 19 to the Housing Act 1996 (c. 52) and S.I. 1997/74. Section 43 was amended by section 132 and 140 of and Schedule 17 to the Housing Act 1988 (c. 50); section 194 of and Schedule 12 to the Local Government and Housing Act 1989 (c. 42), section 78 of and Schedule 10 to the Environment Act 1995 (c. 25) and section 227 of and Schedule 9 to the Housing Act 1996.

(c) 1987 c. 26.

(d) 1996 c. 52.

(e) 1988 c. 50; section 14 was amended by section 104 of and Schedule 8 to the Housing Act 1996 (c. 52) and S.I. 1993/651.

(f) 1988 c. 43; section 25 was amended by S.I. 1993/658.

(g) S.I. 1990/1700; amended by S.I. 1990/2366 and 1991/1281.

(h) 1968 c. 16. Relevant amendments are contained in the Enterprise and New Towns (Scotland) Act 1990 (c. 35) section 33.

Sch. 3

►¹(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Act^(a) (entitlement to child benefit after death of a child or qualifying young person).◄

(2) ►¹The condition is not satisfied if the person to whom sub-paragraph (1) refers is◄—

- (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 ►²regulation 28(11)(e)◄ 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 ►³regulation 28(11)(e)◄ and has been for a period of more than 52 weeks.

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
- ¹(c) is a child or young person in respect of whom section 145A of the Act (entitlement to child benefit after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.◄

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 housing 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;

(a) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21), and has been amended but not in a way material to these Regulations.

¹Paras. 15(1A) inserted, words in 15(2) and para. 16(c) substituted by reg. 12(1)-(3) of S.I. 2011/674 as from 4.4.11 in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, and in any other case on 1.4.11.

²Words substituted in para. 15(2)(a)(ii) by reg. 2(15)(b) of S.I. 2005/2502 as from 1.4.06.

*See page 8.2501.

³Words in para. 15(2)(b) substituted by reg. 6(8) of S.I. 2008/2767 as from 17.11.08.

Sch. 3

- (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.

Person in receipt of benefit

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.

PART 4

Amounts of premiums specified in Part 3

<i>Premium</i>	<i>Amount</i>
20.—(1) ▶ ¹ ◀	
(2)-(4) ▶ ² ◀	
(5) Disability Premium—	(5)
(a) where the claimant satisfies the condition in paragraph 12(a);	(a) ▶ ³ £28.85◀;
(b) where the claimant satisfies the condition in paragraph 12(b).	(b) ▶ ³ £41.10◀.
(6) Severe Disability Premium—	(6)
(a) where the claimant satisfies the condition in paragraph 14(2)(a);	(a) ▶ ³ £55.30◀;
(b) where the claimant satisfies the condition in paragraph 14(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 14(5);	(b)(i) ▶ ³ £55.30◀;
(ii) in a case where there is no-one in receipt of such an allowance.	(b)(ii) ▶ ³ £110.60◀.
(7) Disabled Child Premium.	(7) ▶ ³ £53.62◀ 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.
(8) Carer Premium.	(8) ▶ ³ £31.00◀ in respect of each person who satisfies the condition specified in paragraph 17.
(9) Enhanced disability premium. ▶ ⁴ ◀	(9)
	(a) ▶ ³ £21.63◀ in respect of each child or young person in respect of whom the conditions specified in paragraph 15 are satisfied;

¹Para. 20(1) revoked by Sch. to S.I. 2007/2618 as from 1.10.07.

²Para. 20(2)-(4) omitted by reg. 3(10)(i) of S.I. 2008/1042 as from 19.5.08.

³Amounts in col. 2 of Part 4 to Sch. 3 substituted by art. 20(8) & Sch. 6 of S.I. 2011/821. See art. 1(2)(j) of the S.I. for relevant effective dates.

⁴Words in para. 20(9) of Part 4 of Sch. 3 omitted by reg. 2(8)(b) of S.I. 2010/2449 as from 1.11.10.

- (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the $\blacktriangleright^1\blacktriangleleft^2$, a disability premium, the work-related activity component or the support component \blacktriangleleft 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 to be disregarded from the claimant's earnings under \blacktriangleright^3 paragraphs 3 to 10A \blacktriangleleft of this Schedule;
- (b) the amount of child care charges calculated as deductible under \blacktriangleright^1 regulation 27(1)(c) \blacktriangleleft ; and
- (c) \blacktriangleright^4 £17.10 \blacktriangleleft .
- (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.

¹Words in para. 17(2)(b)(iv)(bb) & (3) of Sch. 4 substituted and omitted by reg. 3(11)(e)-(f) of S.I. 2008/1042 as from 19.5.08.

²Words in para. 17(2)(b)(iv)(bb) of Sch. 4 & para. 4 of Sch. 5 substituted by regs. 24(c) & 25(a) of S.I. 2008/1082 as from 27.10.08.

³Words in para. 17(3) of Sch. 4 substituted by reg. 2(9) of S.I. 2010/2449 as from 1.11.10.

⁴Amount in para. 17(3)(c) of Sch. 4 remains unchanged by art. 20(10) of S.I. 2011/821. See art. 1(2)(j) of the S.I. for relevant effective dates.

SCHEDULE 5

Regulation 40

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

See reg. 16(1)(b) of S.I. 2010/1222 at page 11.7185 for details of notifications of this Sch. in certain situations.

\blacktriangleright^5 **A2.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme. \blacktriangleleft

⁵Para. A2 inserted by reg. 14(1)(b) & (2) of S.I. 2011/688 as from 25.4.11.

\blacktriangleright^6 **A3.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme. \blacktriangleleft

⁶Para. A3 inserted by reg. 14(1)(b) & (2) of S.I. 2011/917 as from 20.5.11.

1. Any amount paid by way of tax on income which is to be taken into account under regulation 40 (calculation of income other than earnings).

2. Any payment in respect of any expenses incurred or to be incurred by a claimant who is–

- (a) engaged by a charitable or voluntary organisation; or
(b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 42(9) (notional income).

\blacktriangleright^7 **2A.** Any payment in respect of expenses arising out of the claimant's participation in a service user group. \blacktriangleleft

⁷Para. 2A inserted in Sch. 5 by reg. 6(6)(a) of S.I. 2009/2655 as from 2.11.09.

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 \blacktriangleright^2 , an income-based jobseeker's allowance or an income-related employment and support allowance \blacktriangleleft 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. Any disability living allowance.

Sch. 5

¹Para. 7(d) inserted by reg. 25(b) of S.I. 2008/1082 as from 27.10.08.

²Words in para. 8 & paras. 11(1)(a)(iii) & (2)(c) substituted by reg. 5(6)(a) & (b) of S.I. 2008/3157 as from 5.1.09.

7. Any concessionary payment made to compensate for the non-payment of—
- (a) any payment specified in paragraph 6 or 9;
 - (b) income support;
 - (c) an income-based jobseeker's allowance.
- ▶¹(d) an income-related employment and support allowance.◀

8. Any mobility supplement under ▶²article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a)◀ (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(b) or any payment intended to compensate for the non-payment of such a supplement.

9. Any attendance allowance.

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

11.—(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(c) (payment of school expenses; grant of scholarships etc.);
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980(d) (power to assist persons to take advantage of educational facilities);
- ▶²(iii) directions made under section 73ZA of the Education (Scotland) Act 1980(e) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(f); or◀
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002(g) (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
- ▶²(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) 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).

12. 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(h).

(a) S.I. 2006/606.

(b) S.I. 1983/686; amended by S.I. 1983/1164 and 1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420.

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

(d) 1980 c. 44.

(e) Section 73ZA was inserted by the Further and Higher Education (Scotland) Act 2005 (asp 6), section 19(1).

(f) 1992 c. 37.

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

(h) S.I. 2002/2086.

48. ▶¹◀

49. 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(a) to assist disabled persons to obtain or retain employment despite their disability.

50. Any guardian's allowance.

▶²**51.** Any council tax benefit.

52.—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

53. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.◀

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

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

▶²(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.◀

(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).

55A-55B. ▶²◀

56. Except in a case which falls under sub-paragraph (1) of paragraph 17 of Schedule 4, 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 ▶³£17.10◀.

57. Any payment made ▶⁴◀ under section 12B of the Social Work (Scotland) Act 1968(c) ▶⁵, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(d)◀ or under regulations made under section 57 of the Health and Social Care Act 2001(e) (direct payments).

¹Para. 48 omitted by reg. 6(5)(b) of S.I. 2008/698 as from 14.4.08.

²Paras. 51, 52, 53 & 55(1)(b) substituted & paras. 55A & 55B deleted by reg. 5(6)(i)-(k) of S.I. 2008/3157 as from 5.1.09.

³Amounts in para. 56 of Sch. 5 remains unchanged by art. 20(11) of S.I. 2011/821. See art. 1(2)(j) of the S.I. for relevant effective dates.

⁴Words deleted in para. 57 of Sch. 5 by reg. 6(12) of S.I. 2009/583 as from 6.4.09.

⁵Words in para. 57 of Sch. 5 inserted by reg. 8(11) of S.I. 2010/641 as from 5.4.10.

(a) 1944 c. 10.

(b) S.I. 1983/686; the relevant amending Instruments are S.I. 1994/2021 and 2002/672.

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

(d) 2006 c. 2006. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).

(e) 2001 c. 15.

Schs. 5-6

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;
- (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 ►¹◄.

¹Words in para. 58(2) of Sch. 5 omitted by reg. 8(10)(b) of S.I. 2010/641 as from 5.4.10.

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;

“rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

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(a).

63.—(1) Any payment made by a local authority or by the ►²Welsh Ministers◄, 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.

²Words substituted in para. 63(1) of Sch. 5 by reg. 5(6)(1) of S.I. 2008/3157 as from 5.1.09.

64. ►³◄

►⁴**65.** Any payment of child benefit.◄

³Para. 64 is revoked by regs. 1(3) & (4) of S.I. 2008/3140 as from 1.4.09 or (according to the circumstances) 6.4.09.

⁴Para. 65 inserted by reg. 3(1) of S.I. 2009/1848 as from 2.11.09.

SCHEDULE 6

Regulation 44

Capital to be disregarded

See reg. 17(1)(6) of S.I. 2010/1222 at page 11.7185 for details of modification of Sch. 6 in certain situations.

►⁵**A2.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.◄

⁵Para. A2 inserted by reg. 15(1)(b) & (2) of S.I. 2011/688 as from 25.4.11.

(a) S.I. 2001/1167.

►¹A3. Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment. ◀

¹Para. A3 inserted by reg. 15(1)(b) & (2) of S.I. 2011/917 as from 20.5.11.

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, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding regulation 25 (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 ►²where that person has attained the qualifying age for state pension credit or is incapacitated◀;

²Words substituted in para. 4(a) by reg. 28(2) of S.I. 2009/1488 as from 6.4.10.

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

48. ►¹◄

48A-48B. ►²◄

49. 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.

50.—(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;

“rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

51.—(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^(a) (payment of school expenses; grant of scholarships etc);

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980^(b) (power to assist persons to take advantage of educational facilities);

►³(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or◄

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

(i) section 14 or section 181 of the Education Act 2002^(c) (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—

¹Para. 48 omitted by reg. 12(4) of S.I. 2011/674 as from 4.4.11 in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, and in any other case on 1.4.11.

²Paras. 48A & 48B deleted by reg. 5(7)(b) of S.I. 2008/3157 as from 5.1.09.

³Para. 51(1)(a)(iii) substituted by reg. 5(7)(c)(i) of S.I. 2008/3157 as from 5.1.09.

(a) 1996 c. 56.

(b) 1980 c. 44.

(c) 2002 c. 32.

Sch. 6

¹Para. 51(2)(c) substituted by reg. 5(7)(c)(ii) of S.I. 2008/3157 as from 5.1.09.

- (a) regulations made under section 518 of the Education Act 1996^(a);
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- ▶¹(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) 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).

52. 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.

53. 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.

54. 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.

55.—(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 ▶²date◀ 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
- (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 payment 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 ▶³20◀, ,
- whichever is the latest.

²Words substituted in para. 55(1)(b) of Sch. 6 by reg. 3(13)(g) of S.I. 2008/1042 as from 19.5.08.

³Words substituted in para. 55(2)(c)(ii)(bb) by reg. 4(5) of S.I. 2006/718 as from 10.4.06.

(a) 1996 c. 30; section 518 was substituted by the School Standards and Framework Act 1998 (c. 31), section 129.

Cases where a death occurs in the first year on or after 7th April 2008

12H.—(1) This regulation applies where—

- (a) the eligible rent is that specified in regulation 12E(2)(b) (basic transitional protection for pathfinder cases), 12F(2)(b) (transitional protection where the claimant enjoyed protection on death before 7th April 2008), 12G(2)(b) (transitional protection where the claimant enjoyed 13 week protection before 7th April 2008) or paragraph (2)(b) of this regulation;
- (b) a linked person dies on or after 7th April 2008 and before 7th April 2009;
- (c) the claimant occupies the same dwelling as the linked person at the date of death; and
- (d) the relevant authority determines a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) or (ii) (change of category of dwelling or death of a linked person).

(2) Where this regulation applies, the claimant's eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death; or
- (b) the amount of the eligible rent which applied immediately before the date of the death.

(3) Where the eligible rent is the amount of the eligible rent which applied immediately before the date of death, it will continue to apply until, on or after the date of the death, the first of the following events occurs—

- (a) the end of 12 months from the date of the death;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with this regulation following the death of another linked person.

(4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

(5) For the purposes of paragraph (1)(c), a claimant shall be treated as occupying the dwelling if regulation 7(13) is satisfied and for that purpose paragraph (13) of regulation 7 shall have effect as if sub-paragraph (b) were omitted.

Basic transitional protection in the second year and subsequent years after 7th April 2008

12I.—(1) This regulation applies where—

- (a) immediately before 7th April 2009 the claimant was enjoying basic transitional protection under regulation 12E; and
- (b) the local authority determines a maximum rent (LHA) by virtue of 13C(4A)(b) on 7th April 2009.

(2) Where this regulation applies, the claimant's eligible rent is—

- (a) the maximum rent (LHA) where it is higher than the eligible rent applying immediately before 7th April 2008; or
- (b) in any other case, the lower of—
 - (i) the amount of the eligible rent applying immediately before 7th April 2008; or
 - (ii) the amount of the cap rent by reference to which the maximum rent (LHA) was determined, ►¹◀

(3) Where the claimant's eligible rent is determined in accordance with paragraph (2)(b), it continues to apply until, on or after 7th April 2009, the first of the following events occurs—

¹In Sch. 10, para. 6, words deleted in the inserted reg. 12I by reg. 2(11) of S.I. 2010/2835 as from 1.4.11.

Sch. 10

- (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a larger category of dwelling or 13C(3) (anniversary of the LHA date) and the maximum rent (LHA) is higher than that eligible rent;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a smaller category of dwelling;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12K (protection on death in the second and subsequent years after 7th April 2008) following the death of a linked person.

(4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

Transitional protection in the second year after 7th April 2008 where the claimant is already enjoying protection on death

12J.—(1) This regulation applies where—

- (a) immediately before 7th April 2009 the claimant was enjoying transitional protection on death under regulation 12H (cases where a death occurs in the first year on or after 7th April 2008); and
- (b) the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(b) on 7th April 2009 .

(2) Where this regulation applies, the claimant's eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death to which the protection relates; or
- (b) the amount of the eligible rent which applied immediately before the date of the death.

(3) Where the eligible rent which applies is the one that applied immediately before the date of the death, it continues to apply until, on or after the date of the death, the first of the following events occurs—

- (a) the end of 12 months after the date of the death to which the protection relates;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12K (protection on death in the second and subsequent years after 7th April 2008) following the death of a linked person.

(4) Where the eligible rent ceases to apply because of paragraph (3)(a) the eligible rent is the one that would have applied if the relevant authority not determined an eligible rent in accordance with regulation 12H(2)(b) (transitional protection where a death occurs in the first year on or after 7th April 2008).

(5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

- (i) the ground of referral was based on the sole condition as to the need for compulsory measures of care specified in section 52(2)(g) of the 1995 Act (commission of offences by child); or
 - (ii) he was required by virtue of the supervision requirement to reside with a parent or guardian of his within the meaning of the 1995 Act, or with a friend or relative of his or of his parent or guardian;
- (e) who has not attained the age of 22 years and has ceased to be a child in relation to whom the parental rights and responsibilities were transferred to a local authority under a parental responsibilities order made in accordance with section 86 of the 1995 Act or treated as so vested in accordance with paragraph 3 of Schedule 3 to that Act, either—
- (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age; or
- (f) who has not attained the age of 22 years and has ceased to be provided with accommodation by a local authority under section 25 of the 1995 Act where he has previously been provided with accommodation by the authority under that provision either—
- (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued to be in such accommodation after he attained that age; and
- “young person” has the meaning prescribed in regulation 19(1).

(2) References in these Regulations to a person who is liable to make payments shall include references to a person who is treated as so liable under regulation 8 (circumstances in which a person is to be treated as liable to make payments in respect of a dwelling).

See reg. 19(1)(e) & (2) of S.I. 2010/1222 at page 11.7185 for details of the modifications of this reg. in certain situations as from 22.11.10.

(3) For the purposes of these Regulations, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with section ►¹regulation 27A of the Jobseeker’s Allowance Regulations or ◀¹ 19 or 20A ►²or regulations made under section 17A ◀ of the Jobseekers Act (a) (circumstances in which a jobseeker’s allowance is not payable); or
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section ►¹regulation 27A of the Jobseeker’s Allowance Regulations or ◀¹ 19 or 20A ►²or regulations made under section 17A ◀ of that Act; or
- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker’s allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purpose of section 20A of that Act; or
- (d) in respect of which an income-based jobseeker’s allowance or a joint-claim jobseeker’s allowance would be payable but for a restriction imposed pursuant to ►³◀ section ►⁴6B, ◀⁴ 7, 8 or 9 of the Social Security Fraud Act 2001 (b) (loss of benefit provisions).

¹Words inserted in reg. 2(3)(a) and (b) by reg. 4(1)(b) of S.I. 2010/509 as from 6.4.10.

²Words inserted in reg. 2(3)(a) & (b) by reg. 17(1)(e) & (2) of S.I. 2011/688 as from 25.4.11.

³Words omitted in reg. 2(3)(d) by reg. 8 of S.I. 2010/424 for relevant commencement date. See Reg. 1(3) of S.I. 2010/424.

⁴Words inserted in reg. 2(3)(d) by reg. 5(2) of S.I. 2010/641 as from 1.4.10.

⁵Reg. 2(3A) inserted by reg. 29(3) of S.I. 2008/1082 as from 27.10.08.

►⁵(3A) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day—

(a) Section 20A inserted by the Welfare Reform and Pensions Act 1999 (c. 30), section 59 and Schedule 7, paragraph 13.
(b) 2001 c. 11.

- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act (disqualification); or
 - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.◀
- (4) For the purposes of these Regulations, the following shall be treated as included in a dwelling—
- (a) subject to sub-paragraphs (b) to (d) any land (whether or not occupied by a structure) which is used for the purposes of occupying a dwelling as a home where either—
 - (i) the occupier of the dwelling acquired simultaneously the right to use the land and the right to occupy the dwelling, and, in the case of a person liable to pay rent for his dwelling, he could not have occupied that dwelling without also acquiring the right to use the land; or
 - (ii) the occupier of the dwelling has made or is making all reasonable efforts to terminate his liability to make payments in respect of the land;
 - (b) where the dwelling is a caravan or mobile home, such of the land on which it stands as is used for the purposes of the dwelling;
 - (c) where the dwelling is a houseboat, the land used for the purposes of mooring it;
 - (d) where in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993(a), the croft land on which it is situated or to which it pertains.
- (5) In these Regulations references to any person in receipt of a guarantee credit, a savings credit or state pension credit includes a reference to a person who would be in receipt thereof but for regulation 13 of the State Pension Credit Regulations 2002(b) (small amounts of state pension credit).

Definition of non-dependant

3.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant or with whom a claimant normally resides.

- (2) This paragraph applies to—
- (a) any member of the claimant’s family;
 - (b) if the claimant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
 - (c) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 21 (circumstances in which a person is to be treated as being or not being a member of the same household);
 - (d) subject to paragraph (3), a person who jointly occupies the claimant’s dwelling and is either a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling;
 - (e) subject to paragraph (3)—

(a) 1993 c. 44.
(b) S.I. 2002/1792.

1948(a) (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(b).

(5) For the purposes of sub-paragraph (4), 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.

(6) 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 the care component of disability living allowance 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 sub-paragraphs (4) and (5).

(7) 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.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—

- (a) no account shall be taken of an award of a carer's allowance to the extent that payment of such an award is backdated for a period before ¹the date on which the award is first paid~~◀~~; 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 ²6B or~~◀~~ 7 of the Social Security Fraud Act 2001(c) (loss of benefit).

¹Words substituted in para. (8)(a) by reg. 4(2) of S.I. 2007/719 as from 2.4.07.

²Words inserted in para. 6(8)(b) of Sch. 3 by reg. 5(3) of S.I. 2010/1160 as from 1.4.10.

Enhanced disability premium

7. ³(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 child or young person who is a member of the claimant's family.

³(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Act (entitlement after death of child or qualifying young person).~~◀~~

³Words inserted & substituted in para. 7 & para. 7(2) inserted by reg.13(2) of S.I. 2011/674 as from 4.4.11 in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, and in any other case on 1.4.11.

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- (a) 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; 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).
 - (b) 1994 c. 39. Section 2 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 232(1).
 - (c) 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.

Disabled child premium

8. 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 within the meaning of paragraph 6(4) or is treated as blind in accordance with paragraph 6(5);

¹Para. 8(c) substituted by reg. 13(3) of S.I. 2011/674 as from 4.4.11 in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, and in any other case on 1.4.11.

- ¹(c) is a child or young person in respect of whom section 145A of the Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.◀

Carer premium

9.—(1) The condition is that the claimant or his partner is, or both of them are, entitled to a carer's allowance.

(2) Where a carer premium has been awarded but—

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

this paragraph 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) is—

- (a) the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
- (b) where head (a) above does not apply, the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

(4) For the purposes of this paragraph, a person shall be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

Persons in receipt of concessionary payments

10. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9, 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.

Person in receipt of benefit

11. 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.

▶¹(4) The “relevant period” for the purpose of this paragraph is any period during which the person to whom the loan was made—

- (a) is entitled to income support ▶²or income-related employment and support allowance◀, or
- (b) is living as a member of a family one of whom is entitled to income support ▶²or income-related employment and support allowance◀,

together with any linked period, that is to say a period falling between two such periods of entitlement to income support ▶²or income-related employment and support allowance◀ separated by not more than 26 weeks.◀

▶³(4A) For the purposes of sub-paragraph (4), a person shall be treated as entitled to income support during any period when he or his partner was not so entitled because—

- (a) that person or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996 ▶⁴, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or in the Intensive Activity Period for 50 plus◀; and
- (b) in consequence of such participation that person or his partner was engaged in remunerative work or had an income ▶⁵equal to or◀ in excess of the claimant’s applicable amount as prescribed in Part IV.◀

▶⁶(4B) A person treated by virtue of paragraph 14 as being in receipt of income support for the purposes of this Schedule is not to be treated as entitled to income support for the purposes of sub-paragraph (4).◀

(5) For the purposes of sub-paragraph (4)—

- (a) any week in the period of 26 weeks ending on 1st October 1995 on which there arose an entitlement to income support such as is mentioned in that sub-paragraph shall be taken into account in determining when the relevant period commences; and
- (b) two or more periods of entitlement and any intervening linked periods shall together form a single relevant period.

(6) Where the loan to which sub-paragraph (2) refers has been applied—

- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 15 ▶⁷during the relevant period◀; or
- (b) ▶⁷to finance the purchase of a property where an earlier loan, which qualified under paragraph 15 or 16 during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property◀;

then the amount of the loan to which sub-paragraph (2) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(7) Notwithstanding the preceding provisions of this paragraph, housing costs shall be met in any case where a claimant satisfies any of the conditions specified in sub-paragraphs (8) to (11) below, but—

- (a) those costs shall be subject to any additional limitations imposed by the sub-paragraph; and
- (b) where the claimant satisfies the conditions in more than one of these sub-paragraphs, only one sub-paragraph shall apply in his case and the one that applies shall be the one most favourable to him.

(8) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies or continues to occupy, as his home; and
- (b) in the week preceding the week in which the relevant interest was acquired, housing benefit was payable to the claimant or a member of his family;

so however that the amount to be met by way of ▶⁸◀ housing costs shall initially not exceed the aggregate of—

- (i) the housing benefit payable in the week mentioned at sub-paragraph (8)(b); and
- (ii) any amount included in the applicable amount of the claimant or a member of his family in accordance with regulation 17(1)(e) or 18(1)(f) in that week;

¹Para. 4(4) substituted by reg. 5(4)(a) of S.I. 1995/2927 as from 12.12.95.

²Words inserted in para. 4(4) by reg. 2(11)(c) of S.I. 2008/1554 as from 27.10.08.

³Sub-para. (4A) inserted into para. 4 by reg. 16(2) of S.I. 1997/2863 as from 5.1.98.

⁴Words inserted in para. 4(4A)(a) by reg. 14(a) of S.I. 2001/1029 as from 9.4.01.

⁵Words inserted in para. 4(4A)(b) by reg. 3(6)(a) of S.I. 2011/674 for a particular claimant on the 1st day of the 1st benefit week to commence for that claimant on or after 11.4.11.

⁶Sub-para. (4B) inserted by reg. 3(3)(b) of S.I. 2007/3183 as from 17.12.07.

⁷Words inserted in para. 6(a) and para. 6(b) substituted by reg. 6(10)(a) of S.I. 1996/1944 as from 7.10.96.

⁸Word deleted in para. 4(8) by reg. 5(4)(b) of S.I. 1995/2927 as from 12.12.95.

Sch. 3

and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of the acquisition, in the standard rate or in any housing costs which qualify under paragraph 17 (other housing costs).

(9) The condition specified in this sub-paragraph is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more suited to the special needs of a disabled person than the accommodation which was occupied before the acquisition by the claimant.

(10) The conditions specified in this sub-paragraph are that—

- (a) the loan commitment increased in consequence of the disposal of the dwelling occupied as the home and the acquisition of an alternative such dwelling; and
- (b) the change of dwelling was made solely by reason of the need to provide separate sleeping accommodation for ¹persons of different sexes aged 10 or over ¹but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.

¹Words substituted in para. 4(10)(b) by reg. 2(11)(b) of S.I. 2008/2767 as from 17.11.08.

(11) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of his family acquires an interest ("the relevant interest") in a dwelling which he then occupies as his home; and
- (b) in the week preceding the week in which the relevant interest was acquired, the applicable amount of the claimant or a member of his family included an amount determined by reference to paragraph 17 and did not include any amount specified in paragraph 15 or paragraph 16;

²Words substituted in para. 4(11) by reg. 5(4)(c) of S.I. 1995/2927 as from 12.12.95.

so however that the amount to be met ²by way of housing costs shall initially not exceed the amount so determined, and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of acquisition, in the standard rate or in any housing costs which qualify under paragraph 17 (other housing costs).

(12) The following provisions of this Schedule shall have effect subject to the provisions of this paragraph.

Apportionment of housing costs

5.—(1) Where the dwelling occupied as the home is a composite hereditament and—

- (a) before 1st April 1990 for the purposes of section 48(5) of the General Rate Act 1967(a) (reduction of rates on dwellings), it appeared to a rating authority or it was determined in pursuance of subsection (6) of section 48 of that Act that the hereditament, including the dwelling occupied as the home, was a mixed hereditament and that only a proportion of the rateable value of the hereditament was attributable to use for the purpose of a private dwelling; or
- (b) in Scotland, before 1st April 1989 an assessor acting pursuant to section 45(1) of the Water (Scotland) Act 1980(b) (provision as to valuation roll) has apportioned the net annual value of the premises including the dwelling occupied as the home between the part occupied as a dwelling and the remainder,

the amounts applicable under this Schedule shall be such proportion of the amounts applicable in respect of the hereditament or premises as a whole as is equal to the proportion of the rateable value of the hereditament attributable to the part of the hereditament used for the purposes of a private tenancy or, in Scotland, the proportion of the net annual value of the premises apportioned to the part occupied as a dwelling house.

(2) Subject to sub-paragraph (1) and the following provisions of this paragraph, where the dwelling occupied as the home is a composite hereditament, the amount applicable under this Schedule shall be the relevant fraction of the amount which would otherwise be applicable under this Schedule in respect of the dwelling occupied as the home.

(a) 1967 c. 9; sections 48(5) and (6) were amended by the Local Government, Planning and Land Act 1980 (c. 65), section 33; section 48(6) was also amended by the Rates Act 1984 (c. 33), section 16 and Schedule 1, paragraph 10.

(b) 1980 c. 45.

(5) In sub-paragraph (4) “the relevant factors” are—

- (a) the availability of suitable accommodation and the level of housing costs in the area; and
- (b) the circumstances of the family including in particular the age and state of health of its members, the employment prospects of the claimant and, where a change in accommodation is likely to result in a change of school, the effect on the education of any child or young person who is a member of his family, or any child or young person who is not treated as part of his family by virtue of regulation 16(4) (foster children).

►¹(6) Where sub-paragraph (4) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the 26 weeks immediately following the date on which—

- (a) the claimant became entitled to income-support where the claimant’s housing costs fell within one of the cases in sub-paragraph (1) on that date; or
- (b) a decision took effect which was made under section 10 (decisions superseding earlier decisions) of the Social Security Act 1998 on the grounds that the claimant’s housing costs fell within one of the cases in sub-paragraph (1).

¹Reg. 13(6) substituted, words in reg. 13(8)(b) omitted & substituted in reg. 14(a)(i) by reg. 9(a) & (b) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation.◀

(7) For the purposes of calculating any period of 26 weeks referred to in sub-paragraph (6), and for those purposes only, a person shall be treated as entitled to income support for any period of 12 weeks or less in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which he was in receipt thereof.

(8) Any period in respect of which—

- (a) income support was paid to a person, and
- (b) it was subsequently determined ►¹◀ that he was not entitled to income support for that period,

shall be treated for the purposes of sub-paragraph (7) as a period in respect of which he was not in receipt of income support.

(9) Heads (c) to (f) of sub-paragraph (1) of paragraph 14 shall apply to sub-paragraph (7) as they apply to paragraphs 6 and 8 but with the modification that the words “Subject to sub-paragraph (2)” were omitted and references to “the claimant” were references to the person mentioned in sub-paragraph (7).

Linking rule

14.—(1) ►²◀ For the purposes of this Schedule—

- (a) a person shall be treated as being in receipt of income support during the following periods—
 - (i) any period in respect of which it was subsequently ►¹determined◀, that he was entitled to income support; and
 - (ii) any period of 12 weeks or less ►³ or, as the case may be, 52 weeks or less,◀ in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which ►⁴◀
 - ⁴(aa) he was, or was treated as being, in receipt of income support,
 - (bb) he was treated as entitled to income support for the purpose of sub-paragraph (5) or (5A)(a), or
 - (cc) (i) above applies;◀

²Words in para. 14(1) deleted by reg. 3(6)(b) of S.I. 2011/674 as from 11.4.11.

³Words inserted in para. 14(1)(a)(ii) by reg. 6(a) of S.I. 2001/488 as from 9.4.01.

⁴Words deleted and sub-para. (aa)-(cc) inserted by reg. 6(10)(b) of S.I. 1996/1944 as from 7.10.96.

(a) Sub-paragraph (5A) was inserted by S.I. 1995/2927, regulation 5(10)(c).

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¹Words substituted in reg. 14(b) by reg. 9(b) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

²Words inserted in para. 14(1)(c)(iv), (d) & (f) by reg. 6(a) of S.I. 2001/488 as from 9.4.01.

³Sub-para. (ee) inserted in para. 14(1) by reg. 16(3)(a) of S.I. 1997/2863 as from 5.1.98.

⁴Words inserted in para. 14(1)(ee)(i) by reg. 14(b) of S.I. 2001/1029 as from 9.4.01.

- (b) a person shall be treated as not being in receipt of income support during any period other than a period to which (a)(ii) above applies in respect of which it is subsequently ►¹determined◄ that he was not so entitled;
- (c) where—
- (i) the claimant was a member of a couple or polygamous marriage; and
 - (ii) his partner was, in respect of a past period, in receipt of income support for himself and the claimant; and
 - (iii) the claimant is no longer a member of that couple or polygamous marriage; and
 - (iv) the claimant made his claim for income support within twelve weeks ►²or, as the case may be, 52 weeks,◄ of ceasing to be a member of that couple or polygamous marriage,
- he shall be treated as having been in receipt of income support for the same period as his 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 parent) of Schedule 2 (applicable amounts) in respect of a past period, provided that the claim was made within twelve weeks ►²or, as the case may be, 52 weeks,◄ of the claimant and his partner becoming one of a couple or polygamous marriage, the claimant shall be treated as having been in receipt of income support for the same period as his 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 his partner was, in respect of a past period, in receipt of income support for himself and the claimant, and the claimant has begun to receive income support as a result of an election by the members of the couple or polygamous marriage, he shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;
- ³(ee) where the claimant—
- (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 1996 ►⁴, in the Intensive Activity Period specified in regulations 75(1)(a)(iv) of those Regulations or in the Intensive Activity Period for 50 plus◄ in receipt of income support and his 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 income support as a result of an election under regulation 4(3) of the Social Security (Claims and Payments) Regulations 1987 by the members of the couple or polygamous marriage,

the claimant shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;◄

- (f) where—
- (i) the claimant was a member of a family of a person (not being a former partner) entitled to income support and at least one other member of that family was a child or young person; and
 - (ii) the claimant becomes a member of another family which includes that child or young person; and
 - (iii) the claimant made his claim for income support within 12 weeks ►²or, as the case may be 52 weeks,◄ of the date on which the person entitled to income support mentioned in (i) above ceased to be so entitled,

the claimant shall be treated as being in receipt of income support for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

(2) ▶¹◀

(3) For the purposes of this Schedule, where a claimant has ceased to be entitled to income support because he or his partner is participating in arrangements for training made under section 2 of the Employment and Training Act 1973(a) or attending a course at an employment rehabilitation centre established under that section ▶²or under the Enterprise and New Towns (Scotland) Act 1990(b)◀, he shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in such arrangements or attending such a course.

▶³(3ZA)For the purposes of this Schedule, a claimant who has ceased to be entitled to income support because—

- (a) that claimant or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996 ▶⁴, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of these Regulations, in the Intensive Activity Period for 50 plus◀ ▶⁵, or in an employment zone scheme◀;and
- (b) in consequence of such participation the claimant or his partner was engaged in remunerative work or had an income in excess of the claimant’s applicable amount as prescribed in Part IV,

shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in that programme ▶⁴or activity◀.◀

▶⁶(3A) Where, for the purposes of sub-paragraphs ▶⁷(1), (3) and (3ZA)◀ a person is treated as being in receipt of income support, for a certain period, he shall ▶⁸subject to sub-paragraph (3AA),◀ be treated as being entitled to income support for the same period.◀

▶⁸(3AA) Where the appropriate amount of a loan exceeds the amount specified in paragraph 11(5), sub-paragraph (3A) shall not apply except—

- (a) for the purposes of paragraph 6(1) or 8(1); or
- (b) where a person has ceased to be in receipt of income support for a period of ▶⁹104 weeks◀ or less because he or his partner is a welfare to work beneficiary.◀

▶⁷(3B) For the purposes of this Schedule, in determining whether a person is entitled to or to be treated as entitled to income support, entitlement to a contribution-based jobseeker’s allowance immediately before a period during which that person or his partner is participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996 ▶⁵, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or is the Intensive Activity Period for 50 plus◀ shall be treated as entitlement to income support for the purposes of any requirement that a person is, or has been, entitled to income support for any period of time.◀

(4) For the purposes of this Schedule, sub-paragraph (5) applies where a person is not entitled to income support by reason only that he has—

- (a) capital exceeding £8,000; or
- (b) income ▶¹⁰equal to or◀ exceeding the applicable amount which applies in his case, or
- (c) both capital exceeding £8,000 and income exceeding the applicable amount which applies in his case.

¹Para. 14(2) deleted by reg. 3(6)(c) of S.I. 2011/674 as from 11.4.11.

²Words inserted in para. 14(3) by reg. 2(11)(c) of S.I. 2008/2767 as from 17.11.08.

³Para 14(3ZA) inserted by reg. 16(3)(b) of S.I. 1997/2863 as from 5.1.98.

⁴Words inserted in para. 14(3ZA), (3ZA)(a) & (3B) by reg. 14(b)(ii)-(iii) of S.I. 2001/1029 as from 9.4.01.

⁵Words inserted in para. 14(3ZA)(a) by reg. 4(3)(c) of S.I. 2000/724 as from 3.4.00.

⁶Para. 14(3A) inserted by reg. 5(10)(a) of S.I. 1995/2927 as from 12.12.95.

⁷Words substituted in para. 14(3A) & sub-para. (3B) inserted by reg. 16(3) of S.I. 1997/2863 as from 5.1.98.

⁸Words inserted in para. 14(3A) and para. (3AA) inserted by reg. 2 of S.I. 1999/1921 as from 2.8.99.

⁹Words in para. 14(3AA)(b) substituted by reg. 5(7)(b) of S.I. 2006/2378 as from 9.10.06

¹⁰Words inserted in para. 14(4)(b) by reg. 3(6)(a) of S.I. 2011/674 for a particular claimant on the 1st day of the 1st benefit week to commence for that claimant on or after 11.4.11.

(a) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19) section 25(1) and repealed in part by the Employment Act 1989 (c. 38), section 29(4), Schedule 7, Part I.

(b) 1990 c. 35.

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¹Word substituted in para. 14(5) by reg. 5(10)(b) of S.I. 1995/2927 as from 12.12.95.

²Words inserted in para. 14(5)(a) by reg. 24(3)(a) of S.I. 1996/206 as from 7.10.96.

³Words substituted in para. 14(5)(a) by reg. 2(1)(f)(i) of S.I. 2008/1554 as from 27.10.08.

⁴Words substituted in para. 14(5)(b) by reg. 3 of S.I. 1999/714 as from 6.4.99.

⁵Para. 14(5A) and (5B) inserted by reg. 5(10)(c) of S.I. 1995/2927 as from 12.12.95.

⁶Words substituted in para. 14(5A) by reg. 24(3)(b) of S.I. 1996/206 as from 7.10.96.

⁷Para. 14(5B)(b) substituted by reg. 24(3)(c) of S.I. 1996/206 as from 7.10.96.

⁸Words substituted in para. 14(5B)(b) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

⁹Words substituted in para. 14(6) & para. 14(7) deleted by reg. 5(10) of S.I. 1995/2927 as from 12.12.95.

(5) A person to whom sub-paragraph (4) applies shall be treated as entitled to income support throughout any period of not ¹more than 39 weeks which comprises only days—

- (a) on which he is entitled to unemployment benefit, ²a contribution-based jobseeker's allowance, statutory sick pay ³, incapacity benefit or contributory employment and support allowance; or
- (b) on which he is, although not entitled to any of the benefits mentioned in head (a) above, entitled to be credited with earnings equal to the lower earnings limit for the time being in force in accordance with ⁴regulation 8A or 8B of the Social Security (Credits) Regulations 1975(a); or
- (c) in respect of which the claimant is treated as being in receipt of income support.

⁵(5A) Subject to sub-paragraph (5B), a person to whom sub-paragraph (4) applies and who is either a person to whom ⁶paragraph 4 or 5 of Schedule 1B (persons caring for another person) applies or a lone parent shall, for the purposes of this Schedule, be treated as entitled to income support throughout any period of not more than 39 weeks following the refusal of a claim for income support made by or on behalf of that person.

(5B) Sub-paragraph (5A) shall not apply in relation to a person 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;
- ⁷(b) is a ⁸full-time student, other than one who would qualify for income support under regulation 4ZA(3) (prescribed categories of person);
- (c) is temporarily absent from Great Britain, other than in the circumstances specified in regulation 4(2) and (3)(b) (temporary absence from Great Britain).

(6) In a case where—

- (a) ⁹sub-paragraphs (5) and (5A) apply solely by virtue of sub-paragraph (4)(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 15 to 17,

⁹sub-paragraphs (5) and (5A) shall have effect as if the words "throughout any period of not ⁹more than 39 weeks" there shall be substituted the words "throughout any period that payments are made in accordance with the terms of the policy".

(7) ⁹

(8) This sub-paragraph applies—

- (a) to a person who claims income support, or in respect of whom income support 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 income support 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 income support was payable ended not more than 26 weeks before the date the claim was made.

(a) S.I. 1975/556; regulation 9 is amended by S.I. 1976/1736, 1977/788, 1978/409, 1981/1501, 1982/96, 1983/197, 1987/414, 687, 1988/516, 1545, 1989/1627, 1992/726, 1994/1837.

(b) Relevant amending instruments are S.I. 1988/663, 1990/547 and 1995/482.

(9) Where sub-paragraph (8) applies, in determining—

- (a) for the purposes of paragraph 6(1) whether a person has been ►¹entitled to◄ income support for a continuous period of 26 weeks or more; or
- (b) for the purposes of paragraph 8(1) whether a claimant has been ►¹entitled to◄ income support for a continuous period of 39 weeks or more,

¹Words substituted in para. 14(9) by reg. 5(10)(f) of S.I. 1995/2927 as from 12.12.95.

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

►²(10) In the case of a person who is a welfare to work beneficiary, the references in sub-paragraphs (1)(a)(ii), ►³(1)(c)(iv)◄, (1)(d) and (1)(f)(iii) to a period of 12 weeks shall be treated as references to a period of ►⁴104 weeks◄.

²Para. 14(10) inserted by reg. 13(4)(b) of S.I. 1998/2231 as from 5.10.98.

►⁵(11) For the purposes of sub-paragraph (1)(a)(ii), (1)(c)(iv), (1)(d) and (1)(f)(iii), the relevant period shall be—

³Ref. inserted in para. 14(10) by reg. 6 of S.I. 2001/488 as from 9.4.01.

- (a) 52 weeks in the case of a person to whom sub-paragraph (12) applies;
- (b) subject to sub-paragraph (10), 12 weeks in any other case.

⁴Words in para. 14(10) substituted by reg. 5(7)(b) of S.I. 2006/2378 as from 9.10.06.

(12) This sub-paragraph applies, subject to sub-paragraph (13), in the case of a person who, on or after 9th April 2001, has ceased to be entitled to income support because he or his partner—

⁵Ref. inserted in paras. 14(11) to (13) by reg. 6 if S.I. 2001/488 as from 9.4.01.

- (a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which he is engaged in such employment;
- (b) is taking active steps to establish himself 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 1996; or
- (c) is participating in—
 - (i) a New Deal option;
 - (ii) an employment zone programme; or
 - (iii) the self-employment route, ►⁶or
 - (iv) the Intensive Activity Period specified in regulations 75(1)(a)(iv) of the Jobseeker's Allowance Regulations 1996 or the Intensive Activity Period for 50 plus,◄

and, as a consequence, he or his partner was engaged in remunerative work or had income ►⁷equal to or◄ in excess of the applicable amount as prescribed in Part IV.

⁶Sub-para. (iv) inserted in para. 14 (12)(c) by reg. 14(b) of S.I. 2001/1029 as from 9.4.01.

(13) Sub-paragraph (12) shall only apply to the extent that immediately before the day on which the person ceased to be entitled to income support, his housing costs were being met in accordance with paragraph 6(1)(a) ►⁸, 6(1)(b)◄ or 8(1)(a) or would have been so met but for any non-dependant deduction under paragraph 18.◄

⁷Words inserted in para. 14(12)(c) by reg. 3(6)(a) of S.I. 2011/674 for a particular claimant on the 1st day of the 1st benefit week to commence for that claimant on or after 11.4.11.

►⁹(14) For the purposes 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 income support in this Schedule shall be taken to include also a reference to state pension credit.◄

⁸Text inserted in para. 14(13) by reg. 6 of S.I. 2002/841 as from 8.4.02.

►¹⁰(15) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where ►¹¹a claimant, a claimant's partner or◄ a claimant's former partner was entitled to income-related employment and support allowance, any reference to income support in this Schedule shall be taken to include also a reference to income-related employment and support allowance.◄

⁹Sub-para. (14) inserted in para. 14 by reg. 29(6)(d) of S.I. 2002/3019 as from 6.10.03.

¹⁰Para. 14(15) inserted by reg. 2(11)(f)(ii) of S.I. 2008/1554 as from 27.10.08.

Loans on residential property

***15.**—(1) A loan qualifies under this paragraph where the loan was taken out to defray monies applied for any of the following purposes—

- (a) acquiring an interest in the dwelling occupied as the home; or
- (b) paying off another loan to the extent that the other loan would have qualified under head (a) above had the loan not been paid off.

(2) For the purposes of this paragraph, references to a loan include also a reference to money borrowed under a hire purchase agreement for any purpose specified in heads (a) and (b) of sub-paragraph (1) above.

(3) Where a loan is applied only in part for the purposes specified in heads (a) and (b) of sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

Loans for repairs and improvements to the dwelling occupied as the home

***16.**—(1) A loan qualifies under this paragraph where the loan was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the dwelling occupied as the home;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the dwelling occupied as the home;
- (c) paying off another loan to the extent that the other loan would have qualified under head (a) or (b) of this sub-paragraph had the loan not been paid off,

and the loan was used for that purpose, or is used for that purpose within 6 months of the date of receipt of such further period as may be reasonable in the particular circumstances of the case.

(2) In sub-paragraph (1) “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling—

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating systems;
- (c) damp proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting a dwelling for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for ►¹persons◀ of different sexes aged 10 or over ►¹but under the age of 20 who live with the claimant and for whom the claimant or the claimant’s partner is responsible◀.

(3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

** Loans which would not qualify under paras. 15 and 16 above but which came within paras. 7(6), 7(7) or 8(1)(a) of the former Sch. 3 (which was superseded as from 2.10.95) may in certain cases attract the transitional protection in reg. 3 of S.I. 1995/2287.*

¹Words substituted in para. 16(2)(l) by reg. 2(1)(d) of S.I. 2008/2767 as from 17.11.08.

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8.625 - 8.636	Supp. 79	8.1825 - 8.1834	Supp. 93	8.2101 - 8.2114	Supp. 93
8.637 - 8.730	Supp. 21	8.1835 - 8.1844	Supp. 77	8.2115 - 8.2120	Supp. 91
8.731 - 8.750	Supp. 23	8.1845 - 8.1846	Supp. 86	8.2121 - 8.2122	Supp. 93
8.751 - 8.752	Supp. 39	8.1847 - 8.1848	Supp. 84	8.2123 - 8.2132	Supp. 86
8.753 - 8.770	Supp. 90	8.1849 - 8.1856	Supp. 85	8.2133 - 8.2134	Supp. 84
8.771 - 8.800	Supp. 69	8.1857 - 8.1858	Supp. 94	8.2135 - 8.2144	Supp. 94
8.801 - 8.902	Supp. 53	8.1859 - 8.1868	Supp. 90	8.2145 - 8.2146	Supp. 95
8.903 - 8.912	Supp. 81	8.1869 - 8.1870	Supp. 91	8.2147 - 8.2156	Supp. 94
8.913 - 8.1000	Supp. 88	8.1871 - 8.1874	Supp. 95	8.2157 - 8.2158	Supp. 89
8.1001 - 8.1002	Supp. 53	8.1875 - 8.1876	Supp. 92	8.2159 - 8.2160	Supp. 94
8.1003 - 8.1300	Supp. 94	8.1877 - 8.1878	Supp. 94	8.2161 - 8.2168	Supp. 90
8.1301 - 8.1306	Supp. 74	8.1879 - 8.1880	Supp. 92	8.2169 - 8.2170	Supp. 91
8.1307 - 8.1360	Supp. 94	8.1881 - 8.1882	Supp. 90	8.2171 - 8.2172	Supp. 86
8.1361 - 8.1500	Supp. 95	8.1883 - 8.1884	Supp. 95	8.2173 - 8.2180	Supp. 90
8.1501 - 8.1502	Supp. 91	8.1885 - 8.1892	Supp. 91	8.2181 - 8.2182	Supp. 94
8.1503 - 8.1504	Supp. 94	8.1893 - 8.1894	Supp. 89	8.2183 - 8.2184	Supp. 85
8.1505 - 8.1522	Supp. 95	8.1895 - 8.1896	Supp. 94	8.2185 - 8.2300	Supp. 77
8.1523 - 8.1524	Supp. 85	8.1897 - 8.1904	Supp. 91	8.2301 - 8.2304	Supp. 74
8.1525 - 8.1528	Supp. 95	8.1905 - 8.1906	Supp. 94	8.2305 - 8.2310	Supp. 78
8.1529 - 8.1530	Supp. 79	8.1907 - 8.1908	Supp. 95	8.2311 - 8.2320	Supp. 88
8.1531 - 8.1532	Supp. 85	8.1909 - 8.1916	Supp. 93	8.2321 - 8.2324	Supp. 89
8.1533 - 8.1536	Supp. 91	8.1917 - 8.1918	Supp. 91	8.2325 - 8.2326	Supp. 91
8.1537 - 8.1538	Supp. 95	8.1919 - 8.1920	Supp. 95	8.2327 - 8.2328	Supp. 89
8.1539 - 8.1544	Supp. 93	8.1921 - 8.1928	Supp. 86	8.2329 - 8.2332	Supp. 93
8.1545 - 8.1546	Supp. 95	8.1929 - 8.1930	Supp. 91	8.2333 - 8.2334	Supp. 92
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8.2361 - 8.2372	Supp. 74	8.2697 - 8.2698	Supp. 90	8.2979 - 8.2984	Supp. 93
8.2373 - 8.2374	Supp. 92	8.2699 - 8.2700	Supp. 95	8.2985 - 8.2986	Supp. 88
8.2375 - 8.2388	Supp. 74	8.2701 - 8.2704	Supp. 86	8.2987 - 8.2988	Supp. 86
8.2389 - 8.2404	Supp. 89	8.2705 - 8.2708	Supp. 85	8.2989 - 8.2996	Supp. 87
8.2405 - 8.2406	Supp. 95	8.2709 - 8.2720	Supp. 95	8.2997 - 8.2998	Supp. 89
8.2407 - 8.2408	Supp. 91	8.2721 - 8.2728	Supp. 94	8.2999 - 8.3000	Supp. 93
8.2409 - 8.2424	Supp. 83	8.2729 - 8.2730	Supp. 87	8.3001 - 8.3008	Supp. 87
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8.2443 - 8.2448	Supp. 84	8.2733 - 8.2740	Supp. 91	8.3011 - 8.3022	Supp. 85
8.2449 - 8.2500	Supp. 74	8.2741 - 8.2742	Supp. 95	8.3023 - 8.3024	Supp. 94
8.2501 - 8.2502	Supp. 94	8.2743 - 8.2744	Supp. 94	8.3025 - 8.3026	Supp. 91
8.2503 - 8.2504	Supp. 84	8.2745 - 8.2748	Supp. 92	8.3027 - 8.3036	Supp. 90
8.2505 - 8.2514	Supp. 94	8.2749 - 8.2750	Supp. 94	8.3037 - 8.3038	Supp. 84
8.2515 - 8.2516	Supp. 92	8.2751 - 8.2754	Supp. 95	8.3039 - 8.3044	Supp. 82
8.2517 - 8.2520	Supp. 95	8.2755 - 8.2756	Supp. 91	8.3045 - 8.3046	Supp. 93
8.2521 - 8.2524	Supp. 94	8.2757 - 8.2764	Supp. 94	8.3047 - 8.3048	Supp. 92
8.2525 - 8.2530	Supp. 95	8.2765 - 8.2768	Supp. 91	8.3049 - 8.3050	Supp. 93
8.2531 - 8.2536	Supp. 87	8.2769 - 8.2776	Supp. 95	8.3051 - 8.3056	Supp. 91
8.2537 - 8.2538	Supp. 90	8.2777 - 8.2778	Supp. 85	8.3057 - 8.3058	Supp. 93
8.2539 - 8.2540	Supp. 89	8.2779 - 8.2780	Supp. 93	8.3059 - 8.3060	Supp. 82
8.2541 - 8.2548	Supp. 87	8.2781 - 8.2782	Supp. 91	8.3061 - 8.3062	Supp. 94
8.2549 - 8.2558	Supp. 94	8.2783 - 8.2786	Supp. 77	8.3063 - 8.3068	Supp. 86
8.2559 - 8.2564	Supp. 95	8.2787 - 8.2788	Supp. 95	8.3069 - 8.3076	Supp. 90
8.2565 - 8.2568	Supp. 82	8.2789 - 8.2790	Supp. 91	8.3077 - 8.3080	Supp. 94
8.2569 - 8.2570	Supp. 93	8.2791 - 8.2804	Supp. 85	8.3081 - 8.3082	Supp. 84
8.2571 - 8.2572	Supp. 92	8.2805 - 8.2812	Supp. 82	8.3083 - 8.3084	Supp. 74
8.2573 - 8.2574	Supp. 94	8.2813 - 8.2814	Supp. 95	8.3085 - 8.3086	Supp. 85
8.2575 - 8.2576	Supp. 93	8.2815 - 8.2826	Supp. 82	8.3087 - 8.3092	Supp. 86
8.2577 - 8.2584	Supp. 88	8.2827 - 8.2900	Supp. 77	8.3093 - 8.3098	Supp. 94
8.2585 - 8.2586	Supp. 74	8.2901 - 8.2902	Supp. 89	8.3099 - 8.3100	Supp. 86
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8.2633 - 8.2634	Supp. 91	8.2939 - 8.2940	Supp. 87	8.3133 - 8.3142	Supp. 87
8.2635 - 8.2644	Supp. 88	8.2941 - 8.2942	Supp. 81	8.3143 - 8.3152	Supp. 84
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8.2651 - 8.2652	Supp. 94	8.2947 - 8.2950	Supp. 94	8.3155 - 8.3156	Supp. 82
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8.2657 - 8.2660	Supp. 85	8.2953 - 8.2960	Supp. 94	8.3159 - 8.3300	Supp. 82
8.2661 - 8.2662	Supp. 84	8.2961 - 8.2962	Supp. 90	8.3301 - 8.3352	Supp. 74
8.2663 - 8.2664	Supp. 82	8.2963 - 8.2964	Supp. 94	8.3353 - 8.3360	Supp. 75
8.2665 - 8.2666	Supp. 85	8.2965 - 8.2968	Supp. 82	8.3361 - 8.3362	Supp. 83
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8.2669 - 8.2682	Supp. 93	8.2971 - 8.2972	Supp. 83	8.3367 - 8.3368	Supp. 90
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