

# Council Tax Reduction Scheme



HILLINGDON  
LONDON

## **Foreword**

This document sets out the London Borough of Hillingdon's Draft Council Tax Reduction Scheme. Following a period of consultation the council will consider the scheme again and Once the final scheme is made it shall have effect 1<sup>st</sup> April 2013.

The scheme set out in this document replaces Council Tax Benefit following its abolition by s33 of the Welfare Reform Act 2012.

This Scheme complies with the requirements of s13A and Schedule 1A of the Local Government Finance Act 1992

This Scheme does not and cannot make any changes to the scheme of discounts and exemptions available in Council Tax. The authority will continue to comply with its statutory duty to award discounts and exemptions in appropriate cases for example (but not limited to): where there is a single occupier; where the charge payer has a severe mental impairment; where a band reduction is appropriate because of disability.

# The Policy

## Pensioners

It is a legislative requirement that those of Pension Age continue to receive support by way of a Council Tax Reduction on the same terms as would have applied under the Council Tax Benefit scheme. This scheme adopts the provisions as set out in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012. Section 3 contains parts of the former Council Tax Benefit scheme which have been introduced to keep consistency between the Council Tax Benefit Reduction Scheme and the previous Council Tax Benefit Scheme in the areas covered in that section.

The legislation sets out the definition of pensioner for the purposes of the scheme. Those not defined as pensioners are by default defined as working age.

It is our understanding that any figures set out in this part of the scheme will be subject to an annual review by the government and that they will be set each year by order of the secretary of state.

The extent of provision for those of Pension Age is a matter for Central Government with one exception. Authorities are free to extend the provisions set out in Section 1 Schedule 5 Paragraph 1 to the extent that they disregard any of those War Pensions in full. The London Borough of Hillingdon has always disregarded those war pensions in full under the Council Tax Benefit scheme and will continue to do so under the Council Tax Reduction scheme.

## Working Age

All of the features set out in Sections 2 and 3 of this scheme are features that are determined by The London Borough of Hillingdon.

There is a legal requirement that the London Borough of Hillingdon establishes a Council Tax Reduction Scheme for those of working age. Some of the requirements set out in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 apply to those of working age and feature in Section 1 of this scheme. In section 1 and section 3 there are also some features common for both pensioners and working age.

Caselaw in respect of Council Tax Benefit, Housing Benefit and other social security benefits will be used to help interpret this scheme.

Any omission from this document in relation to the new reduction scheme (as amended) or items not specifically mentioned will not invalidate the scheme or the individual reduction awarded.

Broadly speaking The London Borough of Hillingdon Scheme mirrors the provisions and features of the old Council Tax Benefit scheme with some notable exceptions:

## Protected Working Age

The following groups will continue to receive 100% of their assessed entitlement, using the criteria set out in Section 2 of this scheme. That does not mean that they will all receive a 100% reduction, the scheme will still be based upon a means test, taking into account the needs and income of the applicant in order to establish an award. The following groups are protected working age:

- 1 Persons who have the Disability Premium (Schedule 10 paragraphs 9 and 10) included

in the calculation (whether they are in work or out of work). This recognises the additional difficulties this group faces in working because of their disabilities.

- 2 Persons who are in receipt of a War Disablement Pension, War Pension, War Widows Pension or War Widower's Pension, or a guaranteed income payment or survivor's guaranteed income payment under the armed Forces and Reserve Forces Compensation Scheme. This recognises the sacrifice made by those individuals or their partners whilst serving in the armed forces.

### **Unprotected Working Age**

Those applicants that do not fall into one of the protected groups will be assessed using the criteria set out in Section 2 of the scheme. The new scheme is based upon a means test, taking into account the needs and income of the applicant in order to establish a figure. The calculation of entitlement to Council Tax Reduction will be assessed upon 80% of the net Council Tax for that day. The net Council Tax is obtained after deducting any discounts from that day's Council Tax liability.

### **Alternative Maximum Reduction**

The national scheme for those of Pension Age includes an Alternative Maximum Reduction (Previously known as Second Adult Rebate). There will be no such reduction in The London Borough of Hillingdon scheme for those of Working Age.

### **Backdating**

The maximum backdating time limit has reduced from 6 months under the Council Tax Benefit Scheme to 3 months under the Council Tax Reduction Scheme for working age claimants. This 3 month limit is consistent with many Social Security Benefits.

### **Capital**

For working age claimants the capital and tariff income will be assessed with a £10,000 capital disregard. The tariff income will be £1 per week for every £500 or part thereof. If the non disregarded capital exceeds £16000 there will be no entitlement to Council Tax Reduction (as is currently the case).

### **Annual Up-rating**

The figures set out in section 2 of this document are based upon those that apply to Council Tax Benefit in the financial year for 2013/14. It is expected the Department of Communities and Local Government will publish up-rating figures for 2014/15 and hopefully for subsequent years. The authority however reserves the right to establish its own rates using other methods on an annual basis, by resolution of the Council. The deduction rates for travel costs, books and equipment for certain students will be up-rated in accordance with and at the same rates as housing benefit.

## **Universal Credit**

Universal Credit is a new benefit that will start to replace other Welfare Benefits (not Council Tax Reduction) during the life of this scheme. The detail surrounding Universal Credit is yet to be published by the government. At the time of writing this scheme we have adopted an approach to Universal Credit as income for the purposes of this scheme, as set out by government in respect of their “default” scheme

(The Default scheme applies to all authorities that fail to make a scheme by the 31<sup>st</sup> January in the relevant year).

We reserve the right to change our approach to the way that we treat Universal Credit as income for the purposes of this scheme, and may develop alternative approaches as our understanding develops.

## **Working Age War Pensioners**

Working age War Pensioners (those in the working age protected group set out above) will continue to have their War Pensions disregarded in full under this scheme.

## **General Provisions**

The Council reserves the right to amend any part of the scheme that relates to working age applicants in the current and/or future years to account for changes in legislation that affect the scheme, including but not limited to, the income and/or capital or other circumstances of an applicant used to calculate any part of the reduction scheme. Those amendments may by necessity apply during the relevant year, at the relevant date on which the change takes effect or occurs.

## **Decision Making on applications under the scheme**

At the time of writing this scheme the government have not produced the equivalent of *The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (SI 2001 No.1002)*. The government have stated their intention to amend the *Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992 No.613)* to incorporate those decision making powers that are relevant to reduction schemes. We have incorporated some aspects of the Decisions and Appeals Regulations broadly concerning revision, supersession, late notification, suspension and termination into this scheme to replicate what occurs under the Housing Benefit scheme and the previous Council Tax Benefit scheme.

## **Transition**

A claim for Council Tax Benefit in respect of which there is an award of entitlement at the end of the day of 31 March 2013, or in respect of which no decision has been made, will be treated as a claim for Council Tax Reduction from 1 April 2013. This may apply to claims for Council Tax Benefit which by 31 March 2013 have been refused as having no entitlement but are subsequently revised so there is entitlement at 31 March 2013.

# London Borough of Hillingdon– Draft Council Tax Reduction Scheme

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## **Explanatory Note as to contents**

This scheme incorporates the statutory requirements prescribed in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012. Those Regulations are made by The Secretary of State in exercise of the powers conferred by section 113(2) of, and paragraph 2 of Schedule 1A to the Local Government Finance Act 1992, and appear in Section 1 of this document.

The remainder of this scheme sets out that part of the Council Tax Reduction scheme made by The Council in exercise of the powers conferred by section 13A(2), and paragraph 2 of Schedule 1A to of the Local government Finance Act 1992, and appear in Section 2 of this document.

For the avoidance of doubt and in the interests of ease of navigation the following summarises those parts of the scheme that apply to those of Pension Age and those of Working age.

### **Pension Age –**

Section 1 – Part 1, Part 2 and Part 3 Schedule 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5, Schedule 6, Schedule 7, Schedule 8

Section 3 All

### **Working Age –**

Section 1 – Part 1, Part 2 and Part 3 and Schedule 7, Schedule 8

Section 2 -All

Section 3 - All

## **Section 1**

### **PART 1**

#### **General**

#### **Citation, commencement and application**

1. (1) These Regulations may be cited as the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and come into force on 27 November 2012.
- (2) These Regulations apply in relation to billing authorities in England.
- (3) These Regulations apply in relation to council tax reduction schemes made by billing authorities for financial years beginning on or after 1 April 2013.

#### **Interpretation**

2. (1) In these Regulations —

“the 1992 Act” means the Local Government Finance Act 1992;

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society;

“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996;

“AFIP” means an armed forces independence payment in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004.

“alternative maximum council tax reduction” means the amount determined in accordance with Part 5 of Schedule 1 and Schedule 3;

“applicable amount” means the amount calculated in accordance with paragraph 9 of Schedule 1 and Schedule 2;

“applicant” means a person applying for a reduction under a scheme;

“application” means an application for a reduction under a scheme;

“assessment period” means—

- (a) in relation to the earnings of a self-employed earner, in accordance with paragraph 23 of Schedule 1 for the purpose of calculating the weekly earnings of the applicant; or

- (b) in relation to any other income, in accordance with paragraph 20 of Schedule 1 for the purpose of calculating the weekly income of the applicant;

“attendance allowance” means—

- (a) an attendance allowance under Part 3 of the SSCBA;
- (b) an increase of disablement pension under section 104 or 105 of that Act;
- (c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment; or
- (d) any payment based on need for attendance which is paid as part of a war disablement pension;

“basic rate”, where it relates to the rate of tax, has the meaning given by the Income Tax Act 2007 ;

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995, the Welfare Reform Act 2007;

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

“care home” has the meaning given by section 3 of the Care Standards Act 2000(h) and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001(i) and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(j) or a residential care home within the meaning of Article 10 of that Order;

“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;

“child” means a person under the age of 16;

“child benefit” has the meaning given by section 141 of the SSCBA;

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that

couple;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002 are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007;

“council tax benefit” means council tax benefit under part 7 of the SSCBA

“couple” has the meaning given by regulation 4 of these Regulations;

“Default Scheme Regulations” means the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012;

“designated office” means the office of an authority designated by it for the receipt of applications—

(a) by notice upon or with a form supplied by it for the purpose of making an application;

(b) by reference upon or with such a form to some other document 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 paragraphs (a) and (b);

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

“earnings” has the meaning given by paragraph 21, 23 or 24 of Schedule 1 as the case may be;

“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;

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

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA [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];

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

“extended reduction” means a reduction under a scheme for which a person is eligible pursuant to paragraph 41 of Schedule 1;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 42 of Schedule 1;

“extended reduction (qualifying contributory benefits)” means a reduction under Schedule 1 by which a person is eligible pursuant to paragraph 41 or 44 of Schedule 1;

“family” has the meaning given by regulation 6 of these Regulations;

“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 the Secretary of State on 24th April 1992 or, in Scotland, on 10th April 1992;

“guarantee credit” is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002;

“a guaranteed income payment” means a payment made under article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;

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

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the meanings given by section 1(4) of the Jobseekers Act 1995;

“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007;

“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 given by section 2 of the Care Standards Act 2000; and
- (c) in Scotland means an independent healthcare service as defined by section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;

“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;

“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;

“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;

“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;

“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007;

“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;

“maximum council tax reduction amount” means the amount determined in accordance with paragraph 10 of Schedule 1.

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

“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;

“mobility supplement” means a supplement to which paragraph 5(1)(a)(v) of Schedule 4 to these Regulations refers;

“mover” means an applicant who changes the dwelling in which the applicant is resident, and in respect of which the applicant is liable to pay council tax, from a dwelling in the area of the authority to a dwelling in the area of a second billing authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 22 of Schedule 1 to these Regulations;

“net profit” means such profit as is calculated in accordance with paragraph 32 of Schedule 1 to these Regulations;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraph 45 of Schedule 1, the dwelling to which the applicant has moved, or is about to move, in which the applicant will reside;

“non-dependant” has the meaning given by paragraph 9 of Schedule 1 to these Regulations;

“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;

“partner”, in relation to a person, means—

- (a) where that person is a member of a couple, the other member of that couple; or
- (b) where that person 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;

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

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995;

“pensioner” has the meaning given by regulation 3(a) of these Regulations;

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

“person treated as not being in Great Britain” has the meaning given by regulations 12 to 12B;

“person who is not a pensioner” has the meaning given by regulation 3(b) of these Regulations;

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012;

“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 1988 or a substituted contract within the meaning of section 622(3) of that Act which is treated as having



become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to 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 any marriage to which regulation 5 of these Regulations applies;

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—

- (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;

“qualifying contributory benefit” means—

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

“qualifying income-related benefit” means—

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

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Job Seeker’s Allowance Regulations 1996;

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

“reduction week” means a period [of seven consecutive days] beginning with a Monday and ending with a Sunday;

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

“relevant week”, in relation to any particular day, means the week within which the day in question falls;

“remunerative work” has the meaning given by regulation 10;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have acquired the qualifying age for state pension credit) Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 29 (non-dependant deductions) of this scheme;

“savings credit” shall be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

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

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

“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 Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995,
- (d) a public authority in consequence of a function relating to disability under section 149 of the Equality Act 2010;
- (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
- (f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,
- (g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
- (h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
- (i) 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,
- (j) the regulator or a private registered provider of social housing in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008, or
- (k) 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;

“single applicant” means an applicant 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;

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

“the SSCBA” means the Social Security Contributions and Benefits Act 1992;

“state pension credit” means state pension credit under the State Pension Credit Act 2002;

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

(a) a course of study at an educational establishment; or

(b) a qualifying course;

“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, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or the Welsh 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, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh 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 Employment and Training Act 1973 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 and “Trustees” is to be construed accordingly;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012;

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

“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;

“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,
- 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,

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

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;

“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA.

- (2) In these Regulations, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.
- (3) 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 because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995 (circumstances in which a jobseeker’s allowance is not payable);
  - (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 19 or 19A or regulations made under section 17A or 19B of that Act; or

- (c) in respect of which an income-based jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- (4) 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 2007 (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 state pension credit include a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002(a) (small amounts of state pension credit).
- (7) In these Regulations, references to a person in class A, B or C (as the case may be) is a reference to class A, B or C described in paragraphs 2 to 4 of Schedule 1.

### **Meaning of “pensioner” and “person who is not a pensioner”**

**3.** In these Regulations a person is

- (a) a “pensioner” if—
  - (i) he has attained the qualifying age for state pension credit; and
  - (ii) he is not, or, if he has a partner, his partner is not -
    - (aa) a person on income support, on an income-based jobseeker's allowance, or on an income-related employment and support allowance; or
    - (bb) a person with an award of universal credit; and
- (b) a “person who is not a pensioner” if—
  - (i) he has not attained the qualifying age for state pension credit; or

- (ii) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is
  - (aa) a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (bb) a person with an award of universal credit.

### **Meaning of “couple”**

4. (1) In these Regulations “couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
  - (b) a man and woman who are not married to each other but are living together as husband and wife;
  - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
  - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (2) Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

### **Polygamous marriages**

5. (1) This regulation applies to any case where—
- (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
  - (b) either party to the marriage has for the time being any spouse additional to the other party.
- (2) For the purposes of regulation 4 neither party to the marriage is to be taken to be a member of a couple.

### **Meaning of “family”**

6. (1) In these Regulations “family” means—
- (a) a couple;
  - (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
  - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a

young person.

- (2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).
- (3) The references to a young person in paragraph (1)(b) and (c) do not include a young person who is —
  - (a) on income support, an income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

### **Circumstances in which a person is to be treated as responsible or not responsible for another**

7. (1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom regulation 6(2) applies.
- (2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—
  - (a) the person who is receiving child benefit in respect of that child or young person, or
  - (b) if there is no such person—
    - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
    - (ii) in any other case the person who has the primary responsibility for him.
- (3) For the purposes of these Regulations a child or young person is the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this regulation is to be treated as not so responsible.

### **Households**

8. (1) Subject to paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of regulation 7) as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.
- (2) A child or young person is not be treated as a member of the applicant's

household where he is —

- (a) placed with the applicant or his partner by a local authority under section 23(2)(a) of the Children Act 1989) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
  - (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
  - (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.
- (3) Subject to paragraph (4), paragraph (1) does not apply to a child or young person who is not living with the applicant and who—
- (a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
  - (b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
  - (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.
- (4) An authority must treat a child or young person to whom paragraph (3)(a) applies as being a member of the applicant's household in any reduction week where—
- (a) that child or young person lives with the applicant for part or all of that reduction week; and
  - (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.
- (5) In this regulation "relevant enactment" means—
- (a) the Army Act 1955;
  - (b) the Air Force Act 1955;
  - (c) the Naval Discipline Act 1957;
  - (d) the Matrimonial Proceedings (Children) Act 1958;
  - (e) the Social Work (Scotland) Act 1968;
  - (f) the Family Law Reform Act 1969;
  - (g) the Children and Young Persons Act 1969;
  - (h) the Matrimonial Causes Act 1973;
  - (i) the Children Act 1975;



- (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (k) the Adoption and Children (Scotland) Act 2007;
- (l) the Family Law Act 1986;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

### **Non-dependants**

9. (1) In these Regulations, "non-dependant" means any person, except someone to whom paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.
- (2) This paragraph applies to—
- (a) any member of the applicant's family;
  - (b) if the applicant 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 applicant but who is not a member of his household by virtue of regulation 8 (households);
  - (d) subject to paragraph (3), any person who, with the applicant, 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 applicant or the applicant's partner in respect of the occupation of the dwelling;
  - (f) a person who lives with the applicant 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 applicant or his partner for the services provided by that person.
- (3) Excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following 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 authority to have been created to take advantage of a 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 applicant 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 change giving rise to the new liability was not made to take advantage of a scheme.

## **Remunerative work**

- 10.** (1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.
- (2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over—
- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
  - (b) in any other case, the period of 5 weeks immediately prior to the date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.
- (3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in establishing the average hours for which he is engaged in work.
- (4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.
- (5) A person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.
- (6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any

reduction week will be treated as not being in remunerative work in that week.

- (7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- (8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—
  - (a) a sports award has been made, or is to be made, to him; and
  - (b) no other payment is made or is expected to be made to him.

## **PART 2**

### **Prescribed classes of persons Pensioners**

#### **Pensioners**

- 11. (1) Subject to paragraph (2), the classes of pensioners described in paragraph 1 of Schedule 1 are classes of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must be included in an authority's scheme.
- (2) Pensioners whose capital exceeds £16,000 are a class of person prescribed for the purposes of that paragraph and which must not be included in an authority's scheme.
- (3) Capital for the purposes of paragraph (2) is to be calculated in accordance with Part 7 of Schedule 1.

#### **Persons treated as not being in Great Britain**

- 12. (1) Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.
- (2) Except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- (3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- (4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—
  - (a) Regulation 13 of the EEA Regulations or Article 6 of Council Directive 2004/38/EC; or

- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).
- (5) A person falls within this paragraph if the person is—
- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
  - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
  - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
  - (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971 on the rejection of their claim for asylum;
  - (f) a person who has humanitarian protection granted under those rules; or
  - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.
- (6) A person falls within this paragraph if the person is a Crown servant or member of Her Majesty’s forces posted overseas.
- (7) A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty’s forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.
- (8) In this regulation—
- “claim for asylum” has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;
- “Crown servant” means a person holding an office or employment under the Crown;

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2006; and  
“Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006.

### **Persons subject to immigration control**

- 13.** (1) Persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and who must not be included in an authority’s scheme.
- (2) “Person subject to immigration control” has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

## **PART 3**

### **Matters that must be included in a scheme**

#### **Provision for pensioners**

- 14.** (1) A scheme must make provision in respect of pensioners.
- (2) Schedules 1 to 6, which contain those matters that must be included in a scheme in respect of pensioners, have effect.

#### **Provision for all applicants**

- 15.** (1) A scheme must include the provisions set out in Schedules 7 and 8.
- (2) The provisions mentioned in paragraph (1) must apply to all applicants for a council tax reduction (both persons who are pensioners and persons who are not pensioners) unless otherwise provided.

## SCHEDULE 1 -

### Regulation 14(2)

#### Pensioners: matters that must be included in a scheme

##### PART 1

#### Classes of persons entitled to a reduction under this scheme

1. (1) The classes of pensioners described in paragraphs 2 to 4 are entitled to a reduction under a scheme.
- (2) In those paragraphs, references to an applicant's income or capital include, in a case where the income or capital include, in a case where that income or capital cannot be accurately determined, references to the applicant's estimated income or capital.

#### **Class A: pensioners whose income is less than the applicable amount**

2. On any day Class A consists of any person who is a pensioner—
  - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) subject to paragraph 5, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
  - (e) whose income (if any) for the relevant week does not exceed his applicable amount;
  - (f) who has made an application.

#### **Class B: pensioners whose income is greater than the applicable amount**

3. On any day class B consists of any person who is a pensioner—
  - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) subject to paragraph 5, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;

- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- (g) who has made an application.

### **Class C: alternative maximum council tax reduction**

4. (1) On any day class C consists of any person who is a pensioner—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) subject to paragraph 5, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
  - (e) who has made an application; and
  - (f) in relation to whom the condition in sub-paragraph (2) is met.
- (2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate income, of one or more residents to whom this sub-paragraph applies.
- (3) Sub-paragraph (2) applies to any other resident of the dwelling who—
- (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
  - (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
  - (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—
    - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be

disregarded for the purposes of discount; or

- (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

### **Periods of absence from a dwelling**

5. (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.
- (2) In sub-paragraph (1), a “period of temporary absence” means—
- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
    - (i) the person resides in that accommodation;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
  - (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—
    - (i) the person intends to return to the dwelling;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period is unlikely to exceed 13 weeks; and
  - (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—



- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let;
- (iii) the person is a person to whom sub-paragraph (3) applies; and
- (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(3) This sub-paragraph applies to a person who—

- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
  - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
  - (ii) in premises approved under section 13 of the Offender Management Act 2007, or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;
- (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) is following, in the United Kingdom or elsewhere, a training course;
- (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
- (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
- (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
- (h) is a student;
- (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

(4) This sub-paragraph applies to a person who is—

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in

Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995); or in Northern Ireland under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986; and

- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he shall be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
  - (b) for the purposes of sub-paragraph (3)(a), he shall be treated as if he remains in detention;
  - (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.
- (6) In this paragraph—

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an inpatient in any hospital or similar institution;

“residential accommodation” means accommodation which is provided in—

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield Home; or
- (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

## PART 2

### **Applicable amounts for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **Applicable amounts**

6. (1) The applicable amount for a pensioner for a week is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 to these Regulations;
  - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule;
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).

- (2) In Schedule 2—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

## PART 3

### **Maximum Council Tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **Maximum council tax reduction amount under this scheme**

7. (1) Subject to sub-paragraphs (2) to (4), a person’s maximum council tax reduction amount in respect of a day is 100 per cent of the amount  $A/B$  where—
- (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 8 (nondependent deductions).

- (2) In calculating a person's maximum council tax reduction under the authority's scheme any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than a reduction under that authority's scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 75(1) of the Schedule to the Default Scheme Regulations(b) applies.
- (6) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

### **Non-dependant deductions**

8. (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 7 are—
  - (a) In respect of a non-dependant aged 18 or over in remunerative work, £10.95 x 1/7;
  - (b) In respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £3.65 x 1/7.
- (2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—
  - (a) Less than £186.00, the deduction to be made under this paragraph is that specified in subparagraph (1)(b);
  - (b) Not less than £186.00 but less than £322.00, the deduction to be made under this paragraph is £7.25;
  - (c) Not less than £322.00 but less than £401.00, the deduction to be made under this paragraph is £9.15.
- (3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

- (4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- (5) Where in respect of a day—
- (a) A person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - (b) Other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
  - (c) The person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
- (a) Blind or treated as blind by virtue of sub-paragraphs (12) or (13) below; or
  - (b) Receiving in respect of himself either—
    - (i) Attendance allowance, or would be receiving that allowance but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (ii) The care component of the disability living allowance, or would be receiving that component, but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (iii) The daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
    - (iv) An AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

- (7) No deduction is to be made in respect of a non-dependant if—
- (a) Although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
  - (b) He is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
  - (c) He is a full-time student within the meaning of Part 11 of the Schedule to the Default Scheme Regulations (students); or
  - (d) He is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
    - (i) “Patient” has the meaning given in paragraph 5(6) of this Schedule, and
    - (ii) Where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (8) No deduction is to be made in respect of a non-dependant—
- (a) Who is on income support, state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance; or
  - (b) To whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.
- (9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant’s weekly gross income—
- (a) Any attendance allowance, disability living allowance, personal Independence payment or AFIP received by him;
  - (b) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which are paid as income in kind (see sub-paragraph (13)); and
  - (c) The payments set out in sub-paragraph (10).
- (10) The payments mentioned in sub-paragraph (9) are—
- (a) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);

- (b) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—
  - (i) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
- (c) any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—
  - (i) the person who is suffering from haemophilia or who is a qualifying person;
  - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
- (d) any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—
  - (i) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - (ii) the payment is made either—
    - (aa) to that person's parent or step-parent, or

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

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

(e) any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—

(i) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and

(ii) the payment is made either—

(aa) to that person's parent or step-parent, or

(bb) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or stepparent, or his guardian, but only for a period of two years from the relevant date;

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

(11) An applicant, or as the case may be, his partner is blind or treated as blind for the purposes of sub-paragraph (6)(a) if the applicant or his partner is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (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.

(12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind for a period of 28 weeks following the date on which he ceased to be so registered.

(13) The reference in sub-paragraph (9)(b) to "income in kind" does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.



## **PART 4**

### **Alternative maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **Alternative maximum council tax reduction under a scheme**

9. (1) Subject to sub-paragraphs (2) and (3), the alternative maximum council tax reduction in respect of a day where the conditions set out in paragraph 4 (alternative maximum council tax reduction) are fulfilled, is the amount determined in accordance with Schedule 3 (amount of alternative maximum council tax reduction).
- (2) Subject to sub-paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax reduction in his case, the amount determined in accordance with Schedule 3 must be divided by the number of persons who are jointly and severally liable for that tax.
- (3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 of the 1992 Act (liability of spouses and civil partners), sub-paragraph (2) does not apply in his case.

## **PART 5**

### **Amount of reduction under this scheme**

#### **Amount of reduction under a scheme: Classes A to C**

10. (1) Where a person is entitled to a reduction under a scheme in respect of a day, the amount of the reduction to which he is entitled is as follows.
- (2) Where the person is within class A, the amount which is the appropriate maximum council tax reduction in his case.
- (3) Where the person is within class B, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given in paragraph 3 of this Schedule (income greater than applicable amount).
- (4) Where the person is within class C, that amount is the amount which is the alternative maximum council tax reduction in respect of the day in the applicant’s case.
- (5) Sub-paragraph (6) applies where both—
- (a) sub-paragraph (2) or sub-paragraph (3), and
- (b) sub-paragraph (4), apply to a person.
- (6) The amount of the reduction to which he is entitled is whichever is the greater of—

- (a) the amount of the reduction given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and
- (b) the amount of the reduction given by sub-paragraph (4).

## **PART 6**

### **Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **CHAPTER 1**

##### **General**

#### **Income and capital: applicant's family and polygamous marriages**

- 11.** (1) The income and capital of—
- (a) an applicant; and
  - (b) any partner of that applicant,
- is to be calculated in accordance with the provisions of this Part.
- (2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of the applicant.
- (3) Where an applicant or the partner of an applicant is married polygamously to two or more members of his household—
- (a) the applicant shall be treated as possessing capital and income belonging to each such member; and
  - (b) the income and capital of that member shall be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

#### **Circumstances in which income and capital of non-dependant is to be treated as applicant's**

- 12.** (1) Sub-paragraph (2) applies where it appears to an authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of a scheme and the non-dependant has more income and capital than the applicant.
- (2) Except where the applicant is on a guarantee credit the authority must treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess will be disregarded.
- (3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant will be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

## CHAPTER 2

### Income

#### **Applicant in receipt of guarantee credit**

13. In the case of an applicant who is in receipt, or whose partner is in receipt, of a guarantee credit, the whole of his capital and income shall be disregarded.

#### **Calculation of applicant's income in savings credit only cases**

14. (1) In determining the income and capital of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, an authority must use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of state pension credit.
- (2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—
- (a) the amount of any savings credit payable;
  - (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 24(1)(c) (calculation of income on a weekly basis);
  - (c) the higher amount disregarded under this Schedule in respect of—
    - (i) lone parent's earnings; or
    - (ii) payments of maintenance, whether under a court order or not, which are made or due to be made by—
      - (aa) the applicant's former partner, or the applicant's partner's former partner; or
      - (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
  - (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 4 (sums disregarded from earnings);
  - (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under regulation 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
  - (f) paragraph 12 (circumstances in which income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;

- (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act;
  - (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 4.
- (3) Paragraphs 16 to 36 of this Schedule do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).
- (4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 31 to 36 of this Schedule.
- (5) This sub-paragraph applies if—
- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less;
  - (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
  - (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

### **Calculation of income and capital where state pension credit is not payable**

- 15.** Where neither paragraph 13 (applicant in receipt of guarantee credit) nor 14 (calculation of income in savings credit only cases) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 16 to 21, 24, 25, 27 to 29 and chapter 3 (capital) of this Part.

### **Meaning of "income"**

- 16.** (1) For the purposes of classes A to C, "income" means income of any of the following descriptions—
- (a) earnings;
  - (b) working tax credit;
  - (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
  - (d) income from annuity contracts (other than retirement pension income);
  - (e) a war disablement pension or war widow's or widower's pension (fully disregarded);
  - (f) a foreign war disablement pension or war widow's or widower's pension;
  - (g) a guaranteed income payment;

- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, in any case where article 31(2)(c) applies;
- (i) income from capital other than capital disregarded under Part 1 of Schedule 6 to these Regulations;
- (j) social security benefits, other than retirement pension income or any of the following benefits—
  - (i) disability living allowance;
  - (ii) personal independence payment;
  - (iii) An AFIP;
  - (iv) attendance allowance payable under section 64 of the SSCBA;
  - (v) an increase of disablement pension under section 104 or 105 of that Act;
  - (vi) child benefit;
  - (vii) any guardian's allowance payable under section 77 of the SSCBA;
  - (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act;
  - (viii) Any -
    - (aa) any social fund payment made under Part 8 of that Act; or
    - (bb) occasional assistance
  - (x) Christmas bonus payable under Part 10 of that Act;
  - (xi) housing benefit;
  - (xii) [council tax benefit;]
  - (xiii) bereavement payment;
  - (xiv) statutory sick pay;
  - (xv) statutory maternity pay;
  - (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA;
  - (xvii) additional statutory paternity pay payable under Part 12ZA of that act;
  - (xviii) statutory adoption pay payable under Part 12ZB of that Act;

- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits prescribed above;
- (l) a payment made—
  - (i) under article 30 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006, in any case where article 30(1)(b) applies; or
  - (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc (Worker's Compensation) Act 1979;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
  - (i) under a court order;
  - (ii) under an agreement for maintenance; or
  - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under—

- (i) the Civil List Act 1837,
  - (ii) the Civil List Act 1937,
  - (iii) the Civil List Act 1952,
  - (iv) the Civil List Act 1972, or
  - (v) the Civil List Act 1975
- (u) any income in lieu of that specified in paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who—
- (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
  - (ii) occupies part of the property; and
  - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.
- (2) Where the payment of any social security benefit referred to in sub-paragraph (1) is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.
- (3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (4) The adjustments specified in this paragraph are those made in accordance with—
- (a) the Social Security (Overlapping Benefits) Regulations 1979;
  - (b) the Social Security (Hospital In-Patients) Regulations 1975;
  - (c) section 30DD or section 30E of the SSCBA (reductions in incapacity benefit in respect of pensions and councillor's allowances);
  - (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it.

- (5) In sub-paragraph (1)—
- (a) in paragraph (w) an “equity release scheme” means a loan—
    - (i) made between a person (“the lender”) and the applicant;
    - (ii) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
    - (iii) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home; and
  - (b) in paragraph (J)(ix) “occasional assistance” means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of—
    - (i) meeting, or helping to meet an immediate short-term need—
      - (aa) arising out of an exceptional event or exceptional circumstances, or
      - (bb) that needs to be met to avoid a risk to the well-being of an individual; and
    - (ii) enabling qualifying individuals to establish or maintain a settled home, and “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—
      - (aa) in prison, hospital, an establishment providing residential care or other institution, or
      - (bb) homeless or otherwise living an unsettled way of life.
- (6) In sub-paragraph (5)(b) “local authority” means a local authority in England within the meaning of the Local Government Act 1972.

### **Calculation of weekly income**

- 17.** (1) Except in a case within sub-paragraph (2) or (4), for the purposes of calculating the weekly income of an applicant, where the period in respect of which payment is made—
- (a) does not exceed a week, the whole of that payment will be included in the applicant’s weekly income;
  - (b) exceeds a week, the amount to be included in the applicant’s weekly income will be determined—
    - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
    - (ii) in a case where that period is three months, by multiplying the



amount of the payment by 4 and dividing the product by 52;

- (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
- (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.

(2) Sub-paragraph (3) applies where—

- (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
- (b) the amount of the applicant's income fluctuates and has changed more than once.

(3) The weekly amount of that applicant's income will be determined—

- (a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or
- (b) in any other case, on the basis of—
  - (i) the last two payments if those payments are one month or more apart;
  - (ii) the last four payments if the last two payments are less than one month apart; or
  - (iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.

(4) For the purposes of sub-paragraph (3)(b) the last payments are the last payments before the date the application was made or treated as made.

(5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment will be treated as if made in respect of a period of a year.

(6) This sub-paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (b) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or

- (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982; and
- (c) any payment which is made on an occasional basis.
- (7) The period under which any benefit under the benefit Acts is to be taken into account shall be the period in respect of which that benefit is payable.
- (8) Where payments are made in a currency other than Sterling, the value of the payment shall be determined by taking the Sterling equivalent on the date the payment is made.
- (9) The sums specified in Schedule 4 to these Regulations will be disregarded in calculating—
  - (a) the applicant's earnings; and
  - (b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).
- (10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in paragraph (6) shall be treated as though they were earnings.
- (11) Income specified in Schedule 5 to these Regulations is to be disregarded in the calculation of the applicant's income.
- (12) Schedule 6 (capital disregards) has effect so that—
  - (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
  - (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 37 (calculation of tariff income from capital).
- (13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

### **Earnings of employed earners**

- 18.** (1) Subject to sub-paragraph (2), "earnings" means in the case of employment as an employed earner, means any remuneration or profit derived from that employment and includes—
- (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;

- (c) any payment in lieu of notice;
- (d) any holiday pay;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
  - (i) travelling expenses incurred by the applicant between his home and place of employment;
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001;
- (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
- (i) statutory paternity pay payable under Part 12ZA of that Act;
- (j) ordinary statutory paternity pay payable under Part 12ZA of that Act;
- (k) additional statutory paternity pay payable under Part 12ZA of that Act;
- (l) statutory adoption pay payable under Part 12ZB of that Act;
- (m) any sums payable under a contract of service—
  - (i) for incapacity for work due to sickness or injury; or
  - (ii) by reason of pregnancy or confinement.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
- (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act

1996 in respect of unfair dismissal or unlawful discrimination;

(f) any payment in respect of expenses arising out of the applicant's participation in a service user group.

(3) Paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in paragraph (1)(g).

### **Calculation of net earnings of employed earners**

19. (1) For the purposes of paragraph 24 (calculation of income on a weekly basis), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 17(5) and Schedule 4 (sums disregarded from earnings), be his net earnings.

(2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

(a) any amount deducted from those earnings by way of—

(i) income tax;

(ii) primary Class 1 contributions under the SSCBA;

(b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;

(c) one-half of the amount calculated in accordance with sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and

(d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.

(3) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(4) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution is to be determined—

(a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;

(b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the

qualifying contribution relates.

- (5) Where the earnings of an applicant are determined under paragraph 17(2)(b) (calculation of weekly income), as the case may be, his net earnings are to be calculated by taking into account those earnings over the assessment period, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35, 36 or 37 of the Income Tax Act 2007 as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to 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 SSCBA in respect of those earnings if such contributions were payable; and
  - (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

### **Calculation of earnings of self-employed earners**

20. (1) Where the earnings of an applicant consist of earnings from employment as a self-employed earner, the weekly amount of his earnings must be determined by reference to his average weekly earnings from that employment—
- (a) over a period of one year; or
  - (b) where the applicant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period (“computation period”) as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.
- (2) For the purposes of determining the weekly amount of earnings of an applicant to whom sub-paragraph (1)(b) applies, his earnings over the computation period are to be divided by the number equal to the number of days in that period and the product will be multiplied by 7.
- (3) The period over which the weekly amount of an applicant’s earnings is calculated in accordance with this paragraph will be his assessment period.

### **Earnings of self-employers earners**

21. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross income of the employment.
- (2) “Earnings” in the case of employment as a self-employed earner does not include—

- (a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
- (b) any payment made by a local authority to an applicant—
  - (i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989 or, as the case may be, section 26(1) of the Children (Scotland) Act 1995; or
  - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009 or who is a kinship carer under those Regulations;
- (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989;
- (d) any payment made to the applicant or his partner for a person (“the person concerned”) who is not normally a member of the applicant’s household but is temporarily in his care, by—
  - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;
  - (ii) a voluntary organisation;
  - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
  - (v) The National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006; or
  - (vi) a Local Health Board established by an order made under section 11 of the National Health Service (Wales) Act 2006;
- (e) any sports award.

## **Notional income**

- 22.** (1) An applicant is to be treated as possessing—
- (a) subject to sub-paragraph (2), the amount of any retirement pension income—
    - (i) for which no claim has been made; and
    - (ii) to which he might expect to be entitled if a claim for it were made;
  - (b) income from an occupational pension scheme which the applicant elected to defer.

- (2) Sub-paragraph (1)(a) will not apply to the following where entitlement has been deferred—
  - (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
  - (b) a shared additional pension payable under section 55A of the SSCBA;
  - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965.
- (3) For the purposes of sub-paragraph (2), entitlement has been deferred—
  - (a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;
  - (b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and
  - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.
- (4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit—
  - (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
  - (b) fails to purchase an annuity with the funds available in that scheme; and
  - (c) either—
    - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or
    - (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
    - (iii) income withdrawal is not available to him under that scheme.
- (5) Where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.
- (6) The amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the maximum amount of income which may be withdrawn from the fund and must be determined by the authority, taking account of information provided by the pension fund holder.
- (7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies will be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held

under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).

- (8) In sub-paragraph (4), “money purchase benefits” has the meaning it has in the Pensions Scheme Act 1993.
- (9) Subject to sub-paragraphs (10) and (12), a person will be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under the authority’s scheme or increasing the amount of the reduction.
- (10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.
- (11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.
- (12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.
- (13) Where an applicant is in receipt of any 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 authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects to apply, to the date on which the altered rate is to take effect.
- (14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with paragraph (13), the authority must—
  - (a) determine the income and capital of that applicant in accordance with paragraph 14(1) (calculation of applicant's income in savings credit only cases) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and
  - (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).
- (15) For the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where—
  - (a) his rights to benefits under a registered pension scheme are extinguished



and in consequence of this he receives a payment from that scheme, and

- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004.

(16) In sub-paragraph (15), “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.

### **Income paid to third parties**

- 23.** (1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of the applicant is to be treated as possessed by the applicant.
- (2) Sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, 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—
- (a) 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;
  - (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (c) the person referred to in paragraph (a) and his partner do not possess, or are not treated as possessing, any other income apart from that payment.
- (3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the applicant's participation in a service user group.

### **Calculation of income on a weekly basis**

- 24.** (1) Subject to paragraph 28 (disregard of changes in tax, etc) the income of an applicant is to be calculated on a weekly basis—
- (a) by 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 paragraph 37 (calculation of tariff income from capital); and
  - (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 25 (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 sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that subparagraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

- (2) The conditions of this paragraph are that—
- (a) the applicant'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 applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.
- (3) The maximum deduction to which paragraph (1)(c) above refers shall be—
- (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
  - (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

### **Treatment of child care charges**

- 25.** (1) This paragraph applies where an applicant 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 sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must 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 SSCBA;
  - (c) is paid an employment and support allowance;
  - (d) 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; or

- (e) is 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.
- (3) This sub-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 benefit, an employment and support allowance 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 sub-paragraph (2)(d) or (e) 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 sub-paragraphs (6) and (7) apply, and shall be calculated on a weekly basis in accordance with subparagraph (9).
  - (6) The charges are paid by the applicant for care which is provided—
    - (a) in the case of any child of the applicant'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 applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
  - (7) The charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid—
    - (a) in respect of the child's compulsory education;
    - (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with regulation 7 (circumstances in which a person is treated as responsible or not responsible for another); or
    - (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.
  - (8) The care to which paragraph (7) refers may be provided—
    - (a) out of school hours, by a school on school premises or by a local authority—

- (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
  - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
- (b) by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999; or
- (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
- (e) by—
  - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
  - (ii) local authorities registered under section 83(1) of that Act,
 

where the care provided is child minding or day care of children within the meaning of that Act; or
- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services (England) Regulations 2011, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or

- (l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010(j) and being a regulated activity prescribed by those Regulations; or
  - (m) by a person who is not a relative of the child wholly or mainly in the child's home.
- (9) Relevant child care charges are to be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.
- (10) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) he is aged not less than 80;
  - (b) he is aged less than 80, and—
    - (i) an additional condition specified in paragraph 26 is treated as applying in his case; and
    - (ii) he satisfies that condition or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (c) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
  - (d) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
  - (e) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
  - (f) there is payable in respect of him one or more of the following pensions or allowances—
    - (i) long-term incapacity benefit or short-term incapacity benefit at the

- higher rate under Schedule 4 to the SSCBA;
- (ii) attendance allowance under section 64 of the SSCBA;
- (iii) severe disablement allowance under section 68 of the SSCBA;
- (iv) disability living allowance;
- (v) personal independence payment;
- (vi) an AFIP;
- (vii) increase of disablement pension under section 104 of the SSCBA;
- (viii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vii) above;
- (viii) main phase employment and support allowance;
- (g) a pension or allowance to which sub-paragraph (vii) or (viii) of paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free inpatient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
- (h) an attendance allowance under section 64 of the SSCBA or disability living allowance would be payable to that person but for—
  - (i) a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA; or
  - (ii) an abatement as a consequence of hospitalisation;
- (i) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
- (j) an AFIP would be payable to that person but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution.
- (k) paragraph (f), (g), (h) or (i) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or

- (l) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- (11) For the purposes of sub-paragraph (10), once sub-paragraph (10)(d) applies to the person, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph is to, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
  - (12) For the purposes of sub-paragraph (10), once sub-paragraph (10)(e) applies to the person, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is to, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
  - (13) For the purposes of paragraphs (6) and (8)(a), a person is disabled if he is a person—
    - (a) to whom an attendance allowance or care component of disability allowance is payable or would be payable but for—
      - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (ii) an abatement as a consequence of hospitalisation;
    - (b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
    - (c) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
    - (d) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.
  - (14) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided

that—

- (a) in the week before the period of maternity leave, paternity leave or adoption leave began he was in remunerative work;
  - (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
  - (c) he is entitled to either statutory maternity pay under section 164 of the SSCBA, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171 ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.
- (15) For the purposes of sub-paragraph (14) the relevant period begins on the day on which the person’s maternity, paternity leave or adoption leave commences and shall end on—
- (a) the date that leave ends;
  - (b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
  - (c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay, or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credit ends,

Whichever shall occur first.

(16) In sub-paragraphs (14) and (15)—

- (a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations 1987; and
- (b) “child care element” of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

(17) In sub-paragraphs (6), (8)(a) and (13)(d), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

**Additional condition referred to in paragraph 25(10)(b)(i) : disability**

26. (1) Subject to sub-paragraph (2), the additional conditions referred to in paragraph 25(10)(b)(i) are that either—

- (a) the applicant or, as the case may be, the other member of the couple—



- (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or
- (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant has since remained continuously entitled to council tax benefit (for the period prior to 1<sup>st</sup> April 2013) or a reduction under this scheme (for the period on or after 1<sup>st</sup> April 2013) and, if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
- (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 25(10)(g) (treatment of child care charges); or
- (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 25(10)(g); or
- (v) was in receipt of an AFIP but its payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution; or
- (vi) is provided by the Secretary of State or a clinical commissioning group with an invalid carriage or other vehicle under section of schedule 1 of the National Health Service Act 2006 or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 10(3) of Schedule 1 to the Act of 2006 or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or
- (vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (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; or

- (b) the applicant, or as the case may be the other member of the couple —
  - (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and
  - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
    - (aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;
    - (bb) in any other case, 364 days.
- (2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.
- (3) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods must be treated as one continuous period.
- (4) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the SSCBA (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.
- (5) In the case of a person who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(a) applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA) the reference to a period of 56 days in sub-paragraph (3) must be treated as a reference to a period of 104 weeks.

### **Calculation of average weekly income from tax credits**

- 27.** (1) This paragraph applies where an applicant receives a tax credit.
- (2) Where this paragraph applies, the period over which a tax credit is to be taken into account is the period set out in sub-paragraph (3).
  - (3) Where the instalment in respect of which payment of a tax credit is made is—
    - (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
    - (b) a weekly instalment, the period is 7 days, ending on the day on which the

instalment is due to be paid;

- (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
- (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

- (4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

### **Disregard of changes in tax, contributions etc**

**28.** In calculating the applicant’s income an authority may disregard any legislative change—

- (a) in the basic or other rates of income tax;
- (b) in the amount of any personal tax relief;
- (c) in the rates of social security contributions payable under the SSCBA or in the lower earnings limit or upper earnings limit for Class 1 contributions under that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions);
- (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the SSCBA;
- (e) in the maximum rate of child tax credit or working tax credit,

for a period not exceeding 30 reduction weeks beginning with the reduction week immediately following the date from which the change is effective.

### **Calculation of net profit of self-employed earners**

**29.** (1) For the purposes of paragraph 24 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account are—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—
  - (i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 30 (deduction of tax and contributions of self-employed earners); and
  - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;

- (2) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (8) applies, be calculated by taking into account the earnings of the employment over the assessment period less—
  - (a) subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
  - (b) an amount in respect of—
    - (i) income tax; and
    - (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 30; and
  - (c) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.
- (3) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- (4) Subject to sub-paragraph (5), no deduction is to be made under paragraph (2)(a) or (3), in respect of—
  - (a) any capital expenditure;
  - (b) the depreciation of any capital asset;
  - (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
  - (d) any loss incurred before the beginning of the assessment period;
  - (e) the repayment of capital on any loan taken out for the purposes of the employment; and
  - (f) any expenses incurred in providing business entertainment.
- (5) A deduction must be made under sub-paragraph (2)(a) or (3) in respect of the repayment of capital on any loan used for—
  - (a) the replacement in the course of business of equipment or machinery; or
  - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- (6) The relevant authority must refuse to make a deduction in respect of any expenses under sub-paragraph (2)(a) or (3) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- (7) For the avoidance of doubt—

- (a) a deduction must not be made under sub-paragraph (2)(a) or (3) in respect of any sum unless it has been expended for the purposes of the business;
  - (b) a deduction must be made there under in respect of—
    - (i) the excess of any value added tax paid over value added tax received in the assessment period;
    - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
    - (iii) any payment of interest on a loan taken out for the purposes of the employment.
- (8) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
    - (i) income tax; and
    - (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 30; and
  - (b) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.
- (9) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.
- (10) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium is to be determined—
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
  - (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.
- (11) In this paragraph, “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

### **Calculation of deduction of tax and contributions of self-employed earners**

- 30.** (1) The amount to be deducted in respect of income tax under paragraph

29(1)(b)(i), (2)(b)(i) or (8)(a)(i) (calculation of net profit of self-employed earners) is to be calculated—

- (a) on the basis of the amount of chargeable income; and
  - (b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35, 36 or 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances.
- (2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.
- (3) The amount to be deducted in respect of social security contributions under paragraph 29(1)(b)(i), (2)(b)(ii) or (8)(a)(ii) is the total of—
- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
  - (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.
- (4) In this paragraph "chargeable income" means—
- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (3) of paragraph 29;
  - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

## CHAPTER 3

### Capital

#### Calculation of capital

31. (1) The capital of an applicant to be taken into account must, subject to sub-paragraph (2), be the whole of his capital calculated in accordance with this Part.

- (2) There must be disregarded from the calculation of an applicant's capital under subparagraph (1), any capital, where applicable, specified in Schedule 6 (capital disregards).
- (3) An applicant's capital is to be treated as including any payment made to him by way of arrears of—
  - (a) child tax credit;
  - (b) working tax credit;
  - (c) state pension credit,

if the payment was made in respect of a period for the whole or part of which a reduction under this scheme was allowed before those arrears were paid.

### **Calculation of capital in the United Kingdom**

- 32.** Capital which an applicant possesses in the United Kingdom is to 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.

### **Calculation of capital outside the United Kingdom**

- 33.** Capital which an applicant possesses in a country outside the United Kingdom is to 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**

- 34.** (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction under this authority's scheme or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraph 35 (diminishing notional capital rule).
- (2) A person who disposes of capital for the purpose of—

- (a) reducing or paying a debt owed by the applicant; or
- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case,

Is to be regarded as not depriving himself of it.

- (3) Where an applicant 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 must, notwithstanding paragraph 31 (calculation of capital) be disregarded; and
  - (b) he must, subject to sub-paragraph (4), 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 Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.
- (4) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (3) is to be disregarded.
- (5) Where an applicant is treated as possessing capital under sub-paragraph (1) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

### **Diminishing notional capital rule**

- 35.** (1) Where an applicant is treated as possessing capital under paragraph 34(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 sub-paragraph (2) are satisfied; or
    - (ii) a week which follows that relevant week and which satisfies those conditions,
 is to be reduced by an amount determined under sub-paragraph (3);
  - (b) in the case of a week in respect of which sub-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 sub-paragraph (4) is satisfied,
 is to be reduced by the amount determined under sub-paragraph (5).



- (2) This sub-paragraph applies to a reduction week where the applicant satisfies the conditions that—
  - (a) he is in receipt of a reduction under this scheme; and
  - (b) but for paragraph 34(1), he would have received a greater reduction under that scheme in that week.
- (3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is to be equal to the aggregate of—
  - (a) an amount equal to the additional amount of the reduction in council tax to which subparagraph (2)(b) refers;
  - (b) where the applicant has also claimed state pension credit, the amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);
  - (c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of that reduction week to which paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);
  - (d) where the applicant 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 reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and (e) where the applicant 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 reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- (4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b), the condition is that the applicant would have been entitled to a reduction in council tax under the authority's scheme in the relevant week but for paragraph 34(1).
- (5) In such a case the amount of reduction in the amount of the capital which he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—
  - (a) the amount of the reduction in council tax to which the applicant would have been entitled in the relevant week but for paragraph 34(1);
  - (b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations

- (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
- (c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week, within the meaning of regulation 2 of those Regulations (interpretation), 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,
  - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, 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
  - (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, 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.
- (6) But if the amount mentioned in paragraph (a), (b), (c), (d), or (e) of sub-paragraph (5) (“the relevant amount”) is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—
- (a) dividing the relevant amount by the number equal to the number of days in that part week, and
  - (b) multiplying the result of that calculation by 7.
- (7) The amount determined under sub-paragraph (5) must be re-determined under that subparagraph if the applicant makes a further application for a reduction in council tax under the authority's scheme and the conditions in sub-paragraph (8) are satisfied, and in such a case—
- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and
  - (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.
- (8) The conditions are that—
- (a) a further application is made 26 or more weeks after—

- (i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under paragraph 34(1) ;
- (ii) in a case where there has been at least one re-determination in accordance with subparagraph (5), the date on which he last made an application which resulted in the weekly amount being re-determined, or
- (iii) the date on which he last ceased to be entitled to a reduction in council tax under the authority's scheme,

whichever last occurred; and

- (b) the applicant would have been entitled to a reduction under the authority's scheme but for paragraph 34(1).
- (9) The amount as re-determined pursuant to sub-paragraph (7) does not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

- (a) in relation to the amounts in sub-paragraph (5)(a) means a period of less than a week for which a reduction in council tax under this scheme is allowed;
- (b) in relation to the amounts in sub-paragraph (5)(b) means a period of less than a week for which housing benefit is payable;
- (c) in relation to the amounts in sub-paragraph (5)(c), (d) or (e) means—
  - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and

(ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 34(1) —

- (a) was first taken into account for the purpose of determining his entitlement to a council tax reduction under this scheme; or
- (b) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to a reduction in council tax on that subsequent occasion and that determination or re-determination

resulted in his beginning to receive, or ceasing to receive, a reduction in council tax under this scheme; and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition the later or latest such reduction week or, as the case may be, the later or latest such part-week of the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

### **Capital jointly held**

- 36.** Except where an applicant possesses capital which is disregarded under paragraph 34(4) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

### **Calculation of tariff income from capital**

- 37.** The capital of an applicant, calculated in accordance with this Part, is to be treated as if it were a weekly income of-
- (a) £1 for each £500 in excess of £10,000; but not exceeding £16000; and
  - (b) £1 for any excess which is not a complete £500.

## **PART 7**

### **Extended reductions**

#### **Extended reduction (qualifying contributory benefits)**

- 38.** (1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under a scheme (by virtue of falling within any of the classes A to C) is entitled to an extended reduction (qualifying contributory benefits) where—
- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
  - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, increased earnings or increased number of hours are, expected to last five weeks or more;

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
  - (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of the classes A-C where—
- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

### **Duration of extended reduction period (qualifying contributory benefits)**

- 39.** (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.
- (2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The extended reduction period ends—
- (a) at the end of a period of four weeks; or
  - (b) on the date on which the applicant who is receiving the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

### **Amount of extended reduction (qualifying contributory benefits)**

- 40.** (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) the applicant is entitled to is the greater of—

- (a) the amount of council tax reduction to which the applicant was entitled by virtue of falling within any of the classes A to C in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
  - (b) the amount of reduction under the authority's scheme to which the applicant would be entitled by virtue of falling within any of the classes A to C for any reduction week during the extended reduction period, if paragraph 38 (extended reductions (qualifying contributory benefits)) did not apply to the applicant; or
  - (c) the amount of reduction under the authority's scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 41 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
  - (3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes a claim for a reduction under the authority's scheme, no reduction shall be awarded during the extended reduction period.

**Extended reductions (qualifying contributory benefits): movers**

- 41.** (1) This paragraph applies—
- (a) to a mover; and
  - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction (qualifying contributory benefit) awarded from the Monday from which this paragraph applies until the end of the extended reduction period is the amount of reduction under the authority's ("the first authority") scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.
  - (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from the first authority to—
    - (a) the second authority; or
    - (b) the mover directly.

**Relationship between extended reduction (qualifying contributory benefits) and entitlement to a council tax reduction by virtue of classes A to C**

- 42.** (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the

circumstances listed in paragraph 38(1)(b) (extended reductions: qualifying contributory benefits), that reduction does not cease to have effect until the end of the extended reduction period.

- (2) Part 9 (period of entitlement and changes of circumstances) does not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 40(1)(a) or paragraph 41(2) (amount of extended reduction: movers).

### **Continuing reductions where state pension credit claimed**

**43.** (1) This paragraph applies where—

(a) the applicant is entitled to a reduction under this scheme;

(b) sub-paragraph (2) is satisfied; and

(c) either—

(i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or

(ii) The applicant's partner has actually claimed state pension credit.

- (2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—

(a) the applicant's award of—

(i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or

(ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit or the age of 65; and

(b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

- (3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to a reduction under the authority's scheme for the period of 4 weeks beginning on the day following the day on which the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under that scheme.

- (4) Where a reduction under that scheme is awarded for the period of 4 weeks in

accordance with sub-paragraph (3), and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under the scheme shall continue to be awarded until the end of the reduction week in which the last day of that period falls.

- (5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—
  - (a) the whole of the income and capital of the applicant is to be disregarded;
  - (b) the maximum council tax reduction amount of the applicant is to be that which was applicable in his case immediately before that period commenced.
- (6) The appropriate maximum council tax reduction amount is to be calculated in accordance with paragraph 7(1) if, since the date it was last calculated—
  - (a) the applicant's council tax liability has increased; or
  - (b) a change in the deduction under paragraph 8 (non dependent deductions) falls to be made.

#### **Extended reductions: movers into an authority's area**

#### **44. Where—**

- (a) an application is made to a billing authority ("the current authority") for a reduction under this scheme, and
- (b) The applicant, or the partner of the applicant, is in receipt of an extended reduction from—
  - (i) another billing authority in England;
  - (ii) a billing authority in Wales;

the current authority must reduce any reduction to which the applicant is entitled under its scheme by the amount of that extended reduction.



## PART 8

### When entitlement begins and change of circumstances

#### Date on which entitlement begins

45. (1) Subject to sub-paragraph (2), any person to whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.
- (2) Where a person is otherwise entitled to a reduction under that scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he shall be so entitled from that reduction week.

#### Date on which change of circumstances is to take effect

46. (1) Except in cases where paragraph 28 (disregard of changes in tax, contributions, etc) applies and subject to the following provisions of this paragraph and paragraph 47, a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.
- (2) where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
- (3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 11A (discounts) of that Act, it takes effect from the day on which the change in amount has effect.
- (5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
- (6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- (7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (2) to (6) above refers, or, where more than one day is concerned, from the earlier day.

- 8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authorities scheme.
- (9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authority's scheme.
- (10) Sub-paragraph (11) applies if—
- (a) the applicant or the applicant's partner has attained the age of 65; and
  - (b) either—
    - (i) a non-dependant took up residence in the applicant's dwelling; or
    - (ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 8 (non dependent deductions) increased.
- (11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.
- (12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—
- (a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—
    - (i) the date on which the applicant's entitlement to a reduction under the authority's scheme first began;
    - or
    - (ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;
  - (b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.
- (13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is the first day of the next reduction week to commence after the date determined under that sub-paragraph.

## **Change of circumstances where state pension credit in payment**

- 47.** (1) Sub-paragraphs (2) and (3) apply where—
- (a) an applicant is in receipt of state pension credit;
  - (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
  - (c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of a reduction he receives under this scheme.
- (2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—
- (a) an increase in the reduction he receives under the scheme, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the increased rate; or
  - (b) a decrease in the reduction he receives under the scheme, the change takes effect from the first day of the reduction week next following the date on which—
    - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
    - (ii) state pension credit is increased,whichever is the later.
- (3) Where the change of circumstance (the relevant change) is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under the authority's scheme reduces—
- (a) in a case where the applicant's state pension credit is reduced because the applicant failed to notify the Secretary of State timeously of the change of circumstances, the relevant change takes effect from the first day of the reduction week from which state pension credit was reduced; or
  - (b) in any other case the change takes effect from the first day of the reduction week next following the date on which—
    - (i) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or
    - (ii) state pension credit is reduced,whichever is the later.
- (4) Where the change of circumstance is that state pension credit is reduced and in

consequence of the change, the amount of a reduction the applicant receives under the authority's scheme is increased, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the reduced rate.

(5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under the authority's scheme, the change takes effect from the first day of the reduction week next following the date on which—

(a) the authority receives notification from the Secretary of State of the award of state pension credit; or

(b) Entitlement to state pension credit begins,

whichever is the later.

(6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—

(a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and

(b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of reduction the applicant receives under the authority's scheme, the change of circumstances referred to in paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

(7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of a reduction the applicant receives under the authority's scheme, the change takes effect from the first day of the reduction week next following the date in respect of which the guarantee credit is first payable.

(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 43 (continuing reductions where state pension credit claimed), that change takes effect on the first day of the first reduction week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by—

(a) An authority or a person—

(i) authorised to carry out any function of an authority relating to its scheme; or

- (ii) providing services relating to its scheme directly or indirectly to the authority; or
- (b) an officer of—
  - (i) the Department for Work and Pensions; or
  - (ii) the Commissioners of Inland Revenue,

acting as such, but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant's or, as the case may be, the applicant's partner's income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 14(1) (calculation of applicants income in savings credit only cases).

## SCHEDULE 2

### r14 (2)

#### Applicable amounts

#### PART 1

#### Personal allowances

#### Personal allowance

1. The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 6(1)(a) of Schedule 1.

#### Child or young person amounts

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single applicant or lone parent— (a) aged under 65; (b) aged 65 or over.	£145.40 £163.50
(2) Couple (a) both members aged under 65; (b) One or both members aged 65 or over.	£222.05 £244.95
(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65— (a) for the applicant and the other party to the marriage;  (b) For each additional spouse who is a member of the same household as the applicant.	£222.05  £76.65
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over— (a) for the applicant and the other party to the marriage;  (b) For each additional spouse who is a member of the same household as the applicant.	£244.95  £81.45

#### Child or Young Persons Amounts

2. (1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 6(1)(b) of Schedule 1.

<i>Column (1) Child or young person Person in respect of the period—</i>	<i>Column (2) Amount</i>
(a) Beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£65.62
(b) Beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£65.62

- (2) In column (1) of the table "the first Monday in September" means the Monday which first occurs in the month of September in any year.

## **PART 2**

### **Family premium**

#### **Family premium**

3. The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a family of which at least one member is a child or young person is £17.40.

## **PART 3**

### **Premiums**

#### **Premiums**

4. The premiums specified in Part 4 are, for the purposes of paragraph 6(1)(d) of Schedule 1, applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.
5. Subject to sub-paragraph (2), for the purposes of this Part, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for—
- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
  - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

- (2) For the purposes of the carer premium under paragraph 9, a person shall be

treated as being in receipt of a carer's allowance by virtue of subparagraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012 or an AFIP.

### **Severe disability premium**

6. (1) The condition is that the applicant is a severely disabled person.
- (2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—
- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
- (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012, or a AFIP; and
  - (ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
  - (iii) no person is entitled to, and in receipt of, a carer's allowance in respect of caring for him;
- (b) in the case of an applicant who has a partner—
- (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012, or an AFIP;
  - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and
  - (iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the



marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.

- (3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.
- (4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (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.
- (5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to 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 SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012, or an AFIP; 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 is to 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 SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
  - (b) as being in receipt of the daily living component of personal independence payment and at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so entitled in receipt notwithstanding section 86 of the Act and regulations made thereunder;
  - (c) as being in receipt of an AFIP, if he would, but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
  - (c) 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 is to 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 the date on which the award is first paid; and
  - (b) a reference to a person being in receipt of a carer's allowance it to include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit).

### **Enhanced disability premium**

7. (1) The condition is—
- (a) 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 SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act in respect of a child or young person who is a member of the applicant's family; or
  - (b) (as the case may be) that the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate under section 78(2) of that Act,
- (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 applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

### **Disabled child premium**

8. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—
- (a) is in receipt of disability living allowance or personal independence payment 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) of this Schedule or treated as blind in accordance with paragraph 6(5); or
  - (c) is a child or young person in respect of whom section 145A of the SSCBA (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 applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

### **Carer premium**

9. (1) The condition is that the applicant 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) in a case within sub-paragraph (2)(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) in a case within sub-paragraph (2)(b), 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 is to 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 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

### **Person in receipt of benefit**

11. For the purposes of this Part, a person is to 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 premium specified in Part 3

<i>Provision</i>	<i>Amount</i>
12.(1) Severe Disability Premium—	(1)
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	£59.50
(b) where the applicant satisfies the condition in paragraph 6(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 6(7);	£59.50
(ii) in a case where there is no-one in receipt of such an allowance.	£119.00
(2) Enhanced disability premium.	£23.45 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.
(3) Disabled Child Premium.	£57.89 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium	£33.30 in respect of each person who satisfies the condition specified in paragraph 9.

**SCHEDULE 3**  
**r14(2)**

**Amount of alternative maximum council tax reduction**

1. (1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 9 of Schedule 1 is determined in accordance with the following Table and in this Table—
  - (a) “Second adult” means any person or persons residing with the applicant to whom paragraph 4(2) of Schedule 1 applies (class C); and
  - (b) “person to whom paragraph 75(1) of Schedule 1 to the Default Scheme Regulations applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit.
  
- (2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less—
  - (a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under this scheme); and
  - (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

<i>(1) Second adult</i>	<i>(2) Alternative maximum council tax benefit</i>
<p>(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;</p> <p>(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—</p> <p>(i) is less than £183.00 per week;</p> <p>(ii) is not less than £183.00 per week but less than £239.00 per week;</p> <p>(c) where the dwelling would be wholly occupied by one or more persons to whom paragraph 73(1) of Schedule 1 to the Default Scheme Regulations applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income-based jobseeker's allowance</p>	<p>25 per cent of the council tax due in respect of that day;</p> <p>15 per cent of the council tax due in respect of that day;</p> <p>7.5 per cent of the council tax due in respect of that day;</p> <p>100 per cent of the council tax due in respect of that day.</p>

2. In determining a second adult's gross income for the purposes of this Schedule, there must be disregarded from that income —
  - (a) any attendance allowance, or any disability living allowance or any personal independence payment under part 4 of the Welfare Reform Act 2012 or an AFIP; and
  - (b) any payment to which paragraph 8(9)(b) or (10) of Schedule 1 to these Regulations refers (and sub-paragraph (13) of paragraph 8 applies to this paragraph as it applies in relation to that paragraph).
  
3. Where there are two or more second adults residing with the applicant and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the 1992 Act, his income is to be disregarded in determining the amount of any alternative maximum council tax reduction, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

**SCHEDULE 4**  
**r14(2)**

**Sums disregarded from applicant's earnings**

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—
  - (a) £25 in the case of a lone parent;
  - (b) £20 in any other case.
2. In a case where an applicant is a lone parent, £25 of earnings.
3. (1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.
  - (2) This paragraph applies to employment—
    - (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
    - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
    - (c) as an auxiliary coastguard in respect of coast rescue activities;
    - (d) in the manning or launching of a lifeboat if the employment is part-time;
    - (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.
  - (3) If—
    - (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
    - (b) either of them has, or both of them have, other earnings,  
  
so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.
4. (1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.
  - (2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-

paragraph (1) must not exceed £20 of the aggregated amount.

(3) In this paragraph the applicant or his partner is a carer if paragraph 9 of Part 3 of Schedule 2 (amount applicable for carers) is satisfied in respect of him.

5. (1) £20 is disregarded if the applicant or, if he has a partner, his partner—

(a) is in receipt of—

(i) long-term incapacity benefit under section 30A of the SSCBA;

(ii) severe disablement allowance under section 68 of that Act;

(iii) attendance allowance under sections 64 to 70 of that Act;

(iv) disability living allowance;

(v) personal Independence payment;

(vi) an AFIP;

(vii) any mobility supplement under article 20 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries Civilians) Scheme 1983;

(viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or

(viii) main phase employment and support allowance; or

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

(c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;

(ii) in any other case, 364 days; or

(d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 2007 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—



- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act 2007 has ended; or
  - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.
- (2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or was in receipt of a reduction under this scheme (including under another authority's scheme) and—
- (a) £20 was disregarded in respect of earnings taken into account in that award;
  - (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.
- (3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—
- (a) entitlement to housing benefit; or
  - (b) receipt of a reduction under the scheme; or
  - (c) employment,
- following the first day in respect of which that benefit is awarded or the reduction given under that scheme.
- (4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.

**6. (1) Where—**

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 13 of Schedule 1 does not apply,

the amount specified in sub-paragraph (7) (“the specified amount”).

- (2) Where this paragraph applies, paragraphs 1 to 5 and 7 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead

of this paragraph.

- (3) Notwithstanding paragraph 11 of Schedule 1 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it shall not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).
- (4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.
- (5) This sub-paragraph applies to a person who is—
  - (a) in receipt of a contributory employment and support allowance;
  - (b) in receipt of incapacity benefit;
  - (c) in receipt of severe disablement allowance;
  - (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.
- (6) "Exempt work" means work of the kind described in—
  - (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)
  - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant 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 subparagraph (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).
7. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 5 to these Regulations had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
  8. Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—
    - (a) £5 must be disregarded if an applicant who has no partner has earnings;

(b) £10 must be disregarded if an applicant who has a partner has earnings.

9. Any earnings, other than earnings referred to in paragraph 17(9)(b) of Schedule 1, derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under this scheme.

10. (1) In a case where the applicant 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 this Schedule must be increased by £17.10.

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

(a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

(i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) If he is a member of a couple—

(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 2; 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 has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.

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

(a) any amount disregarded under this Schedule;

(b) The amount of child care charges calculated as deductible under paragraph 24(1)(c) (calculation of income on a weekly basis); and

(c) £17.10.

(4) The provisions of paragraph regulation 10 (remunerative work) are to 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 was a reference to 30 hours.

11. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting to that payment into Sterling.

## SCHEDULE 5

### r14(2)

#### Amounts to be disregarded in the calculation of income other than earnings

1. In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following, namely—
  - (a) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
  - (b) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
  - (c) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (b) above;
  - (d) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
2. The whole of any amount included in a pension to which paragraph 1 relates in respect of—
  - (a) the applicant's need for constant attendance;
  - (b) the applicant's exceptionally severe disablement.
3. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
4. 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.
5. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
6. (1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
    - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
    - (ii) Whose service in such capacity terminated before 31st March 1973; and
  - (b) equal to the amount specified in article 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).
7. £15 of any widowed parent's allowance to which the applicant is entitled under section 39A of the SSCBA.
8. £15 of any widowed mother's allowance to which the applicant is entitled under section 37 of the SSCBA.
9. Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent of such payments; or
  - (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent of the excess over £20.00.
10. If the applicant—
- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
  - (b) occupies a part of that property; and
  - (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
    - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
    - (ii) the amount paid is £20 or more per week, £20.
11. Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

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

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

- 12.** (1) Any payment, other than a payment to which sub-paragraph (2) applies made to the applicant by Trustees in exercise of a discretion exercisable by them.
- (2) This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—
- (a) obtaining food, ordinary clothing or footwear or household fuel;
  - (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
  - (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.
- (3) In a case to which sub-paragraph (2) applies, £20 or—
- (a) if the payment is less than £20, the whole payment;
  - (b) if, in the applicant's case, £10 is disregarded in accordance with paragraph

1(a) to (g), £10 or the whole payment if it is less than £10; or

(c) if, in the applicant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—

(i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;

(ii) he has a disregard under paragraph 1(a) to (g), nil.

(4) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

**13.** Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner's partner.

**14.** Any payment ordered by a court to be made to the applicant or the applicant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.

**15.** Periodic payments made to the applicant or the applicant's partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant's partner for an injury suffered by him.

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

**17.** Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.

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

(a) under, or pursuant to regulations made under powers conferred by section 22 of the Teaching and Higher Education Act 1998, that student's award;

(b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or

(c) the student's student loan,

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



- 19.** (1) Where the applicant is the parent of a student aged under 25 in advanced education who either—
- (a) is not in receipt of any award, grant or student loan in respect of that education; or
  - (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,
- and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.
- (2) For the purposes of sub-paragraph (1), the amount is to be equal to—
- (a) the weekly amount of the payments; or
  - (b) £56.80, whichever is less.
- (3) In this paragraph and paragraph 18 a reference to a “student loan” or a “grant” is a reference to a student loan or a grant within the meaning of Part 11 of the Schedule to the Default Scheme Regulations.
- 20.** (1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.
- (2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.
- 21.** Except in a case which falls under paragraph 10 of Schedule 4, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.
- 22.** Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 6 does not exceed £10,000, any income actually derived from such capital.
- 23.** Except in the case of income from capital specified in Part 2 of Schedule 6 (capital disregards), any actual income from capital.
- 24.** Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No 3) Regulations 1999 as in force at that date, the whole of his income.

**25.** The whole of:

- (a) A war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
- (b) A war widow's pension or war widower's pension;
- (c) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;

**SCHEDULE 6**  
**r14(2)**  
**CAPITAL DISREGARDS**  
**PART 1**

**Capital to be disregarded**

1. Any premises acquired for occupation by the applicant 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 applicant to obtain possession and commence occupation of the premises.
2. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
3. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
4. Any premises occupied in whole or in part—
  - (a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a civil partnership with his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.
7. Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in those premises, for a period of 26 weeks from the date

on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

8. All personal possessions.
9. The assets of any business owned in whole or in part by the applicant 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 those assets.
10. The assets of any business owned in whole or in part by the applicant if—
  - (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 application for a reduction under this scheme is 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.
11. The surrender value of any policy of life insurance.
12. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—
  - (a) the applicant makes one or more payments to another person (“the provider”);
  - (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
  - (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.
13. Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—
  - (a) the applicant;
  - (b) the applicant's partner;
  - (c) the applicant's deceased spouse or deceased civil partner; or
  - (d) the applicant's partner's deceased spouse or deceased civil partner,by the Japanese during the Second World War, an amount equal to that payment.

14. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is—
- (a) A diagnosed person;
  - (b) A diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
  - (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.
- (2) Where a trust payment is made to—
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph is to 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.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is—
- (a) the diagnosed person;
  - (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
  - (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.
- (4) Where a payment such as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ends on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph is to apply for the period beginning on the date on which the payment is made and ending two years after that date.
- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
  - (b) acting in place of the diagnosed person's parents,

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

(6) In this paragraph—

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

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

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

**15.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or civil partner or the applicant's partner's deceased spouse or civil partner—

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

during the Second World War.

**16.** (1) Any payment made under or by—

(a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or

(b) the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of that person's partner or former partner—

(a) from whom he is not, or where that person has died was not, estranged or divorced,

or

- (b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.
- (4) Sub-paragraph (3) does not apply if—
  - (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
  - (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.
- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, where—
  - (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,

but only for a period from the date of the payment until the end of two years from that person's death.
- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, where—
  - (a) that person at the date of his death (“the relevant date”) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child who was or had been a member of his household;

and

  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or

- (ii) where that person at the relevant date was a child or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,

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

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

- 17.** (1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.

- (2) Where the whole or part of the payment is administered—

- (a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;
- (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
- (c) In accordance with the terms of a trust established for the benefit of the applicant or his partner,

the whole of the amount so administered.

- 18.** Any amount specified in paragraph 19, 20, 21 or 25 of this Schedule for a period of one year beginning with the date of receipt.

- 19.** Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.

- 20.** So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of—

- (a) purchasing premises which the applicant intends to occupy as his home; or
- (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

- 21.** (1) Subject to paragraph 22 any amount paid—

- (a) by way of arrears of benefit;
- (b) by way of compensation for the late payment of benefit;
- (c) in lieu of the payment of benefit;



- (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
- (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000 under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001

(2) In sub-paragraph (1), “benefit” means—

- (a) attendance allowance under section 64 of the SSCBA;
- (b) disability living allowance;
- (c) personal independence payment
- (d) an AFIP;
- (e) income support;
- (f) income-based jobseeker's allowance;
- (g) state pension credit;
- (h) housing benefit;
- (i) council tax benefit;
- (j) child tax credit;
- (k) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (n) working tax credit; or
- (o) income-related employment and support allowance.

**22.** (1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and has been received by the applicant in full on or after the day on which he became entitled to a reduction under this scheme.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded

under—

- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations;
- (c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006;
- (d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
- (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations,

where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

- (3) Any disregard which applies under sub-paragraph (1) or (2) shall have effect until the award comes to an end.
- (4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of a reduction under this scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received;
- and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—
    - (i) is the person who received the relevant sum;
    - (ii) is the partner of that person; or
    - (iii) was the partner of that person at the date of his death; “official error”—

“official error”

- (a) where the error relates to housing benefit or council tax benefit (in respect of any period before 1 April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and

Appeals) Regulations 1999;

“the relevant date” means the date on which an application for a reduction under the authority’s scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the payment referred to in sub-paragraph (1) or the total amount referred to in sub-paragraph (2).

23. Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.
24. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.
25. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.
26. The dwelling occupied as the home; but only one dwelling shall be disregarded under this paragraph.
27. (1) Subject to sub-paragraph (2) where an applicant satisfies the conditions of class C (alternative maximum council tax reduction) the whole of his capital.  
(2) Sub-paragraph (1) does not apply, where an applicant falls within class B (income greater than applicable amount) and class C.
28. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election and a payment has been made pursuant to that election, an amount equal to—
  - (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
  - (b) the amount of that lump sum,but only for so long as that person does not change that election in favour of an increase of pension or benefit.
29. Any payments made by virtue of regulations made under—
  - (a) section 57 of the Health and Social Care Act 2001 (direct payments);
  - (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services);

- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);
- (d) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972(a) (general social welfare); or
- (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002(b) (direct payments).

## **PART 2**

### **Capital disregarded only for the purposes of determining deemed income**

- 30.** The value of the right to receive any income under a life interest or from a life rent.
- 31.** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
- 32.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 33.** Where property is held under a trust, other than—
  - (a) a charitable trust within the meaning of the Charities Act 1993; or
  - (b) a trust set up with any payment to which paragraph 16 of this Schedule applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

**SCHEDULE 7**  
**Regulation 15(1)**

**PART 1**

**Procedure by which a person may apply for a reduction under this scheme**

1. Paragraphs 2 to 8 apply to an application for a reduction under this scheme.
2. An application may be made—
  - (a) in writing,
  - (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
  - (c) where the authority has published a telephone number for the purpose of receiving such applications by telephone.
3. (1) An application which is made in writing must be made to the offices of the authority on a properly completed form.  
  
(2) The form must be provided free of charge by the authority for the purpose.
4. (1) Where an application made in writing is defective because—
  - (a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
  - (b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,

the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.

  - (2) An application made on a form provided by an authority is properly completed if it is completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.
5. (1) If an application made by electronic communication is defective an authority must provide the person making the application with an opportunity to correct the defect.  
  
(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.
6. In a particular case the authority may determine that an application made by

telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.

7. (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.
  - (2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.
- 7A.** Transition - a claim for Council Tax Benefit in respect of which there is an award of entitlement at the end of the day of 31 March 2013, or in respect of which no decision has been made, will be treated as a claim for Council Tax Reduction from 1 April 2013. This may apply to claims for Council Tax Benefit which by 31 March 2013 have been refused as having no entitlement but are subsequently revised so there is entitlement on 31 March 2013.

## **PART 2**

### **Procedure for making an appeal**

#### **Procedure by which a person may make an appeal against certain decisions of the authority**

8. (1) A person who is aggrieved by a decision of an authority which affects—
  - (a) the person's entitlement to a reduction under its scheme, or
  - (b) the amount of any reduction to which that person is entitled,may serve a written notice on that authority stating the matter by which, and the grounds on which, he is aggrieved.
- (2) The authority must—
  - (a) consider the matter to which the notice relates;
  - (b) notify the aggrieved person in writing—
    - (i) that the ground is not well founded, giving reasons for that belief; or
    - (ii) that steps have been taken to deal with the grievance, stating the steps taken.
- (3) Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

## **PART 3**

## **Procedure for applying for a discretionary reduction**

### **Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act**

9. (1) An application to an authority for a reduction under section 13A(1)(c)(a) of the 1992 Act may be made—
- (a) in writing,
  - (b) by means of an electronic communication in accordance with Part 4 of this Schedule,
- or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- (2) Where—
- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
  - (b) a person in that class would otherwise be entitled to a reduction under its scheme, that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).

## **PART 4**

### **Electronic communication**

#### **Interpretation**

- 10 In this Part –

“information” includes an application, a certificate, notice or other evidence and

“official- computer system” means a computer system maintained by or on behalf of the authority for sending, receiving, processing or storing of any information.

#### **Conditions for the use of electronic communication**

11. (1) An authority may use an electronic communication in connection with an application for, and awards of, reductions under its scheme.
- (2) A person other than that authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions

specified in sub-paragraphs (3) to (6) are satisfied.

- (3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.
- (4) The second condition is that the person uses an approved method of—
  - (a) authenticating the identity of the sender of the communication;
  - (b) electronic communication;
  - (c) authenticating any application or notice delivered by means of an electronic communication; and
  - (d) subject to sub-paragraph (7), submitting to the authority any information.
- (5) The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes of this Part.
- (6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.
- (7) Where the person uses any method other than the method approved of submitting any information that information is to be treated as not having been submitted.
- (8) In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part.

### **Use of intermediaries**

- 12.** The authority may use intermediaries in connection with—
- (a) the delivery of any information by means of an electronic communication; and
  - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

### **Effect of delivering information by means of electronic communication**

- 13.** (1) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority’s scheme, on the day the conditions imposed—
- (a) by this Part; and



(b) by or under an enactment,

are satisfied.

- (2) An authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in subparagraph (1).
- (3) Information must not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

### **Proof of identity of sender or recipient of information**

**14.** If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

- (a) the sender of any information delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any such information delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

### **Proof of delivery of information**

**15.** (1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where—

- (a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
- (b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this is presumed not to be the case, if that information delivered to the authority has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt is presumed to be that recorded on an official computer system.

## **Proof of content of information**

- 16.** If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system.

**SCHEDULE 8**  
**Regulation 15(1)**

**Procedure for an Application for a reduction under this scheme**

**PART 1**

**Extended reductions: persons who are not pensioners**

1. Paragraph 2 applies only in relation to persons who are not pensioners.

**Extended reductions: movers into an authority's area**

2. Where—
- (a) an application is made to an authority (“the current authority”) for a reduction under its scheme, and
  - (b) the applicant or the partner of the applicant, is in receipt of an extended reduction from—
    - (i) another billing authority in England; or
    - (ii) a billing authority in Wales,

the current authority must reduce any reduction to which the applicant is entitled under its scheme by the amount of that extended reduction.

**PART 2**

**Further provision about applications and duty to notify a change of circumstances**

3. Except for paragraph 6 (which applies to persons who are pensioners only), paragraphs 4 to 9 apply to persons who are pensioners and persons who are not pensioners.

**Making an application**

4. (1) In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.
- (2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—
- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
  - (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland)

Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or

- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise, that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.
- (3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, an authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.
- (4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- (5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—
- (a) it may at any time revoke the appointment;
  - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
  - (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by an authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.
- (7) The authority must—
- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a);
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

## **Date on which an application is made**

5. (1) Subject to sub-paragraph (7), the date on which an application is made is—
- (a) in a case where—
    - (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and
    - (ii) the application for a reduction is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office, the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;
  - (b) in a case where—
    - (i) an applicant or his partner is a person in receipt of a guarantee credit,
    - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling he occupies as his home, and
    - (iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place;
  - (c) in a case where—
    - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
    - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received, the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;
  - (d) in a case where—
    - (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
    - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
    - (iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place;
  - (e) In a case where—

- (i) an applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under this scheme, and
  - (ii) the applicant makes an application for a reduction under that scheme within one month of the date of the death or the separation, the date of the death or separation;
- (f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as an authority considers reasonable) of the date on which an application form was issued to an applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (g) in any other case, the date on which an application is received at the designated office.
- (2) For the purposes only of sub-paragraph (1)(c) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—
- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
  - (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days), have been entitled to that allowance.
- (3) Where the defect referred to in paragraph 7 of Schedule 7 (applications by telephone)—
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
  - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- (4) An authority must treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- (5) The conditions are that—

- (a) where paragraph 4(a) of Schedule 7 (incomplete form) applies, the authority receives at its designated office the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
  - (b) where paragraph 4(b) of Schedule 7 (application not on approved form or further information requested by authority) applies—
    - (i) the approved form sent to the applicant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,
    - (ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request, or, in either case, within such longer period as the authority may consider reasonable; or
  - (c) where the authority has requested further information, the authority receives at its designated office the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- (6) Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to an authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.
- (7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than—
- (a) in the case of an application made by—
    - (i) a pensioner, or
    - (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit,

the seventeenth reduction week following the date on which the application is made, or
  - (b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the

reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

- (8) In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims of income support, a job seekers allowance or an employment and support allowance.

### **Back-dating of applications**

6. (1) This paragraph applies only to persons who are pensioners.
- (2) Subject to sub-paragraph (3), the time for the making of an application under this scheme is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.
- (3) In any case where paragraph 5(1)(a) (date on which application made: state pension credit comprising guarantee credit) applies, sub-paragraph (2) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

### **Information and evidence**

7. (1) Subject to sub-paragraph (3), a person who makes an application for a reduction under this scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.
- (2) This sub-paragraph is satisfied in relation to a person if—
- (a) the application is accompanied by—
- (i) a statement of the person’s national insurance number and information or evidence establishing that that number has been allocated to the person; or
- (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
- (b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by—
- (i) evidence of the application for a national insurance number to be so allocated; and
- (ii) the information or evidence enabling it to be so allocated.
- (3) Sub-paragraph (2) does not apply—



- (a) in the case of a child or young person in respect of whom an application for a reduction is made;
  - (b) to a person who—
    - (i) is a person treated as not being in Great Britain for the purposes of these Regulations;
    - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
    - (iii) has not previously been allocated a national insurance number.
- (4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- (5) Nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- (6) Where an authority makes a request under sub-paragraph (4), it must—
- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which must be notified.
- (7) This sub-paragraph applies to any of the following payments—
- (a) a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 16 of Schedule 6 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);
  - (c) a payment which is disregarded under paragraph 8(10) of Schedule 1.
- (8) Where an applicant or a person to whom a reduction under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a

personal pension scheme, he must where the authority so requires furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

### **Amendment and withdrawal of application**

8. (1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.
- (2) Where the application was made by telephone in accordance with Part 1 of Schedule 7, the amendment may also be made by telephone.
- (3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.
- (4) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.
- (5) Where the application was made by telephone in accordance with Part 1 of Schedule 7, the withdrawal may also be made by telephone.
- (6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- (7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

### **Duty to notify changes of circumstances**

9. (1) Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—
- (a) between the making of an application and a decision being made on it, or
  - (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under this scheme) including at any time while the applicant is in receipt of such a reduction.
- (2) The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority—
- (a) in writing; or

- (b) by telephone—
  - (i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 7 unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
  - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
- (c) by any other means which the authority agrees to accept in any particular case,

within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

- (3) The duty imposed on a person by sub-paragraph (1) does not extend to notifying—
  - (a) changes in the amount of council tax payable to the authority;
  - (b) changes in the age of the applicant or that of any member of his family;
  - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- (4) For the purposes of sub-paragraph (3)(c) "relevant benefit" means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.
- (5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- (6) The duty imposed on a person by sub-paragraph (1) includes in the case of a person falling within class C (pensioners: alternative maximum council tax reduction), giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs.
- (7) A person who has been awarded a reduction under this scheme who is also on state pension credit must report—
  - (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;

- (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.
- (8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only a savings credit must also report—
- (a) changes affecting a child living with him which may result in a change in the amount of reduction under the authority's scheme allowed in his case, but not changes in the age of the child;
  - (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;
  - (c) any change in the income or capital of—
    - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 12 of Schedule 1 (circumstances in which income of a non-dependant is to be treated as applicant's); or
    - (ii) a person to whom paragraph 14(2)(e) of Schedule 1 refers (partner treated as member of the household under regulation 8), and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.
- (9) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

## PART 3

### Decisions by an authority

- 10.** This Part applies to persons who are pensioners and persons who are not pensioners.

#### **Decision by authority**

- 11.** An authority must make a decision on an application under its scheme within 14 days of paragraphs 4 and 7 and Part 1 of Schedule 7 being satisfied, or as soon as reasonably practicable thereafter.

#### **Notification of decision**

- 12. (1)** An authority must notify in writing any person affected by a decision made by it under its scheme—
- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;

- (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.
- (2) Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement—
    - (a) informing the person affected of the duty imposed by paragraph 9(1);
    - (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
    - (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.
  - (3) Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.
  - (4) In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in the authority's scheme relating to the procedure for making an appeal.
  - (5) A person affected to whom an authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.
  - (6) The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.
  - (7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of an authority under its scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).
- (8) This sub-paragraph applies to—
    - (a) the applicant;
    - (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—
      - (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
      - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on the person's behalf; or
      - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the

Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

- (c) a person appointed by an authority under paragraph 4(3) (persons appointed to act for a person unable to act).

## **Part 4**

### **Decisions by an authority**

#### **Circumstances in which a payment may be made**

- 13.** This part applies to persons who are pensioners and persons who are not pensioners.

#### **Payment where there is joint and several liability**

- 14.** (1) Where—
  - (a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;
  - (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
  - (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers would be inappropriate, it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.
- (2) Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.
- (3) Where a person other than a person who is entitled to a reduction under this scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 4(3) or is treated as having been so appointed by virtue of paragraph 4(4), the amount of the reduction may be paid to that person.

## **Section 2**

(Schedule 1A 2(1) Local Government Finance Act 1992)

### **Interpretation**

In addition to the statutory interpretation set out in Section 1 regulation 2 which is adopted for the purposes of this scheme, in this Section of the scheme

“applicable amount” means— the amount calculated in accordance with paragraphs 14, 15 and 16 of Schedule 9 and Schedule 10;

“assessment period” such period as is set out in paragraphs 21 to 23 of this section of the scheme over which income falls to be calculated;

“reduction week” means 7 consecutive days commencing on a Monday and ending on a Sunday.

“child care costs element” has the meaning given by regulation issued by the Secretary of State under the Welfare reform act 2012;

“council tax benefit” means council tax benefit under Part 7 of the SSCBA;

“earnings” has the meaning given by paragraph 25 of this section of the scheme

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

“employment zone” means an area with Great Britain designated for the purposes of 60 of the Welfare Reform Act 1997 and Pensions Act 1999 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;

“extended reduction” means a reduction under this scheme for which a person is eligible pursuant to paragraph 60 of this section of the scheme;

“extended reduction (qualifying contributory benefits)” means a reduction under this section of the scheme for which a person is eligible pursuant to paragraph 65 of this section of the scheme;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 61 or 66 of this section of the scheme;

“housing costs element” has the meaning given by regulations issued by the Secretary of State under the Welfare Reform Act 2012;

“mobility supplement” means a supplement to which paragraph 13 of Schedule 12 refers;

“net earnings” means such earnings as are calculated in accordance with paragraph 26 of this section of the scheme, as the case may be;

“net profit” means such profit as is calculated in accordance with paragraph 35 of this section of the scheme;

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

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

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



## Schedule 9

### PART 1

#### **Classes of persons entitled to a reduction under this scheme**

1. The classes of persons who are not pensioners described in paragraphs 3 to 10 are entitled to a reduction under this section of the scheme.
2. In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

#### **Class D: Persons who are entitled to a Disability Premium and whose income is less than the applicable amount**

3. On any day class D consists of person who is entitled, or who's partner is entitled to a disability premium (schedule 10 paragraphs 9 and 10) and whose income is less than their applicable amount —
  - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
  - (e) whose income (if any) for the relevant week is less than his applicable amount calculated in accordance with part 3 of this Schedule;
  - (f) whose capital on that day does not exceed £16,000, and
  - (g) who has made an application for a reduction under this scheme.

#### **Class E: Persons who are entitled to a Disability Premium and whose income is greater than the applicable amount**

4. On any day class E consists of a person who is entitled, or who's partner is entitled to a disability premium (schedule 10 paragraphs 9 and 10) and whose income is greater than the applicable amount
  - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;

- (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
- (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with part 3 of this Schedule;
- (f) in respect of whom amount A exceeds amount B where—
  - (i) amount A is the maximum council tax reduction in his case; and
  - (ii) amount B is  $2\frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount;
- (g) whose capital on that day does not exceed £16,000, and
- (h) who has made an application for a reduction under this scheme.

**Class F: Persons who are in receipt of a War Disablement Pension, a War Widows Pension, a War Widowers Pension, a guaranteed income payment or a survivors guaranteed income payment under the Armed Forces and Reserve Forces Compensation Scheme and whose income is less than the applicable amount**

5. On any day class F consists of any person who is in receipt of a War Disablement Pension, a War Widows Pension, a War Widowers Pension, a guaranteed income payment or a survivors guaranteed income payment under the Armed Forces and Reserve Forces Compensation Scheme included in the calculation—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
  - (e) whose income (if any) for the relevant week is less than his applicable amount calculated in accordance with part 3 of this Schedule;
  - (f) whose capital on that day does not exceed £16,000, and
  - (g) who has made an application for a reduction under this scheme.

**Class G: Persons who are in receipt of a War Disablement Pension, a War Widows Pension, a War Widowers Pension, a guaranteed income payment or a survivors guaranteed income payment under the Armed Forces and Reserve Forces Compensation Scheme included in the calculation and whose income is greater than the applicable amount**

6. On a day class G consists of any person who has either the Severe Disability Premium or Enhanced Disability Premium (Schedule 10 paragraph 11 and 12) included in the calculation—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
  - (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with part 3 of this Schedule;
  - (f) in respect of whom amount A exceeds amount B where—
    - (i) Amount A is the maximum council tax reduction in his case; and
    - (ii) Amount B is  $2\frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount;
  - (g) whose capital on that day does not exceed £16,000, and
  - (h) who has made an application for a reduction under this scheme.

**Class H : persons who are not pensioners whose income is less than the applicable amount**

7. On any day class H consists of any person who is not a pensioner and doesn't also fall into Classes D to G
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person not entitled to a reduction under

this scheme (Paragraph 11 of Part 2);

- (e) whose income (if any) for the relevant week is less than his applicable amount calculated in accordance with part 3 of this Schedule;
- (f) whose capital on that day does not exceed £16,000, and
- (g) who has made an application for a reduction under this scheme.

**Class I: persons who are not pensioners whose income is greater than the applicable amount**

8. On any day class I consists of any person who is not a pensioner and doesn't also fall into classes D to G—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
  - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax reduction amount can be calculated;
  - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
  - (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with part 3 of this Schedule;
  - (f) in respect of whom amount A exceeds amount B where—
    - (i) amount A is the maximum council tax reduction in his case; and
    - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
  - (g) whose capital on that day does not exceed £16,000, and
  - (h) who has made an application for a reduction under this scheme.

**Alternative maximum council tax reduction – persons who are not pensioners**

9. Persons that are not pensioners are not entitled to any reduction under the scheme set out for pensioners in Section 1 Part 5. Consequently this scheme does not include a class for those persons.

**Periods of absence from a dwelling**

10. (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.

- (2) In sub-paragraph (1), a “period of temporary absence” means—
- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
    - (i) the person resides in that accommodation;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,  
  
where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
  - (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—
    - (i) the person intends to return to the dwelling;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period is unlikely to exceed 13 weeks; and
  - (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—
    - (i) the person intends to return to the dwelling;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
    - (iii) the person is a person to whom sub-paragraph (3) applies; and
    - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (3) This sub-paragraph applies to a person who —
- (a) detained in custody on remand pending trial or required, as a condition of bail, to reside—
    - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007

or is detained in custody pending sentence upon conviction;

- (b) is resident in a hospital or similar institution as a patient;
  - (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - (d) is following, in the United Kingdom or elsewhere, a training course;
  - (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
  - (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
  - (h) is a student;
  - (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
  - (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
- (4) This sub-paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995); and
  - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
  - (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;
  - (c) if he does not fall within paragraph (a), he is not to be considered to be a

person who is liable to pay council tax in respect of a dwelling of which he is a resident.

(6) In this paragraph—

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“residential accommodation” means accommodation which is provided in—

(a) a care home;

(b) an independent hospital;

(c) an Abbeyfield Home; or

(d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

## **PART 2**

### **Classes of person excluded from this scheme**

#### **Classes of person excluded from this scheme**

- 11.** (1) In addition to those classes set out in Section 1 (Part 2 regulations 12, 12A, 12B and 13 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations, the class of person set out in sub-paragraph 2 are also excluded from this scheme.
- (2) The class of person described in this paragraph consists of any student to whom paragraph 49(1) applies.
- (3) In this paragraph “student” has the meaning given by paragraph 45(1) of this scheme.

## PART 3

### **Applicable amounts for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **Applicable amounts**

12. (1) Subject to paragraphs 13 and 14, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 10;
  - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of Schedule 10;
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of Schedule 10 (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
  - (e) the amount of either the—
    - (i) work-related activity component; or
    - (ii) support component, which may be applicable to him in accordance with Part 5 of that Schedule (the components);
  - (f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

- (2) In Schedule 10—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations ;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.



## **Polygamous marriages**

- 13.** Where an applicant who is not a pensioner is a member of a polygamous marriage, his applicable amount for a week is the aggregate of such of the following amounts as may apply in his case—
- (a) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 10 as if he and that partner were a couple;
  - (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;
  - (c) an amount determined in accordance with paragraph 3 of that Schedule (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
  - (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);
  - (e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);
  - (f) the amount of either the—
    - (i) work-related activity component; or
    - (ii) support component,which may be applicable to him in accordance with Part 5 of that Schedule (the components);
  - (g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

### **Applicable amount: persons who are not pensioners who have an award of universal credit**

- 14.** (1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner —
- (a) who has, or
  - (b) who (jointly with his partner) has,
- an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).

- (2) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if—
  - (a) one of them is a party to an earlier marriage that still subsists; and
  - (b) the other party to that earlier marriage is living in the same household.
- (3) The adjustment referred to in sub-paragraph (1) is to multiply the maximum amount by 12 and divide the product by 52.
- (4) In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012.

## PART 4

### **Maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **Maximum council tax reduction under this scheme**

15. (1) Subject to sub-paragraphs (2) to (4), the amount of a person’s maximum council tax reduction in respect of a day is 80 per cent of the amount A/B for classes H and I; and 100 per cent of the amount of A/B for classes D,E,F and G where—
  - (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year,  
  
less any deductions in respect of non-dependants which fall to be made under paragraph 18 (non-dependant deductions).
- (2) In calculating a person’s maximum council tax reduction under this scheme any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than a reduction under this scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly

and severally liable for council tax does not include a student to whom paragraph 47(2) applies.

- (6) In this paragraph “relevant financial year” means, in relation to any particular day, the financial year within which the day in question falls.

### **Non-dependant deductions**

- 16.** (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 15 are—
- (a) in respect of a non-dependant aged 18 or over in remunerative work, £10.95 x 1/7;
  - (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.65 x 1/7.
- (2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—
- (a) less than £186.00, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
  - (b) not less than £186.00 but less than £322.00, the deduction to be made under this paragraph is £7.25;
  - (c) not less than £322.00 but less than £401.00, the deduction to be made under this paragraph is £9.15.
- (3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.
- (4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of this sub-paragraph, to the couple’s or, as the case may be, all members of the polygamous marriage’s joint weekly gross income.
- (5) Where in respect of a day—
- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and

- (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons; the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
- (a) blind or treated as blind by virtue of sub-paragraphs (12) or (13) below; or
  - (b) receiving in respect of himself either—
    - (i) attendance allowance, or would be receiving that allowance but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (ii) the care component of the disability living allowance, or would be receiving that component, but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients).
- (7) No deduction is to be made in respect of a non-dependant if—
- (a) although he resides with the applicant, it appears to the relevant authority that his normal home is elsewhere; or
  - (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
  - (c) he is a full time student within the meaning of article 4 of, and schedule 1 to, the Council Tax (Discounts Disregards) Order 1992; or
  - (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
    - (i) "Patient" has the meaning given in paragraph 10(6) of this scheme, and
    - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal

in duration to the total of those distinct periods.

- (8) No deduction is to be made in respect of a non-dependant—
- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount); but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.
- (9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant's weekly gross income—
- (a) any attendance allowance, disability living allowance or personal independence payment received by him;
  - (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which are paid as income in kind; and
  - (c) the payments set out in sub-paragraph (10).
- (10) The payments mentioned in sub-paragraph (9) are—
- (a) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
  - (b) any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—
    - (i) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
    - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
    - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
  - (c) any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have

formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—

- (i) the person who is suffering from haemophilia or who is a qualifying person;
  - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
- (d) any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—
- (i) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - (ii) the payment is made either—
    - (aa) to that person's parent or step-parent, or
    - (bb) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death;
- (e) any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—
- (i) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
  - (ii) the payment is made either—
    - (aa) to that person's parent or step-parent, or
    - (bb) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or stepparent, to his guardian, but only for a period of two years from the relevant date;

- (f) in the case of a person to whom or for whose benefit a payment referred to in this subparagraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (11) An applicant, or as the case may be, his partner is blind or treated as blind for the purposes of sub-paragraph (6)(a) if the applicant or his partner is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (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.
- (12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind for a period of 28 weeks following the date on which he ceased to be so registered.
- (13) The reference in sub-paragraph (9)(b) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

## **PART 5**

### **Confirmation of Amount of Council Tax included in the calculation for classes H and I.**

#### **Amount of Council Tax included in the calculation**

17. This is to restate for the avoidance of any doubt that for classes H and I the amount of Council Tax to be included in the calculation of reduction is 80% of the Council Tax for that day after having already deducted any discount awarded for that day.

## **PART 6**

### **Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

#### **CHAPTER 1**

##### **General**

#### **Calculation of income and capital: applicant’s family and polygamous marriages**

18. (1) The income and capital of—
- (a) an applicant; and
  - (b) any partner of that applicant,

is to be calculated in accordance with the provisions of this Part.

- (2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.
- (3) Where an applicant or the partner of an applicant is married polygamously to two or more members of his household—
  - (a) the applicant must be treated as possessing capital and income belonging to each such member; and
  - (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

### **Circumstances in which capital and income of non-dependant is to be treated as applicant's**

19. (1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more capital and income than the applicant.

(2) Except where—

- (a) the applicant is a pensioner and is on a guarantee credit, or
- (b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,

the authority will treat the applicant as possessing capital and income belonging to that non-dependant and, in such a case, any capital and income which the applicant does possess is to be disregarded.

(3) Where an applicant is treated as possessing capital and income belonging to a non-dependant under sub-paragraph (2) the capital and income of that non-dependant will be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

## **CHAPTER 2**

### **Income and capital where there is an award of universal credit**

#### **Calculation of income and capital: persons who have an award of universal credit**

20. (1) In determining the income of an applicant—

- (a) who has, or



(b) who (jointly with his partner) has,

an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

(2) The authority must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.

(3) The authority may only adjust the amount of the income as adjusted in accordance with sub-paragraph (2) so far as necessary to take into account—

(a) the amount of the award of universal credit, determined in accordance with sub-paragraph (3);

(b) paragraph 19 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;

(c) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

(4) The amount for the award of universal credit to be taken into account for the purposes of sub-paragraph (3)(a) is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.

(5) Paragraph 19 (income and capital of non-dependant to be treated as applicant's) applies for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (3).

(6) In determining the capital of an applicant—

(a) who has, or

(b) who (jointly with his partner) has,

an award of universal credit, the authority must use the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

## CHAPTER 3

### Income

#### Average weekly earnings of employed earners

21. (1) where the income of an applicant who is not a pensioner consists of earnings

from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—

- (a) over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of—
    - (i) 5 weeks, if he is paid weekly; or
    - (ii) 2 months, if he is paid monthly; or
  - (b) whether or not paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.
- (2) Where the applicant has been in his employment for less than the period specified in sub-paragraph (1)(a)(i) or (ii)—
- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings must be estimated by reference to those earnings;
  - (b) in any other case, the authority must estimate the applicant's average weekly earnings.
- (3) Where the amount of an applicant's earnings changes during an award the authority must estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period will not in any case exceed 52 weeks.
- (4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 27 and 28.

**Average weekly earnings of self-employed earners:**

22. (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed a year.
- (2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 27, 35 and 36 of this part.

**Average weekly income other than earnings:**

23. (1) The income of an applicant who is not a pensioner which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks; and nothing in this paragraph authorises an authority to disregard any

such income other than that specified in Schedule 12.

- (2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.
- (3) For the purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 30 of this part.

### **Calculation of weekly income**

- 24.** (1) For the purposes of paragraphs 21 (average weekly earnings of employed earners), 23 (average weekly income other than earnings) and 33 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—
- (a) does not exceed a week, the weekly amount is to be the amount of that payment;
  - (b) exceeds a week; the weekly amount is to be determined—
    - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
    - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.
- (2) For the purposes of paragraph 22 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

### **Earnings of employed earners:**

- 25.** (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner of a person who is not a pensioner, any remuneration or profit derived from that employment and includes—
- (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
  - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
  - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
  - (e) any payment by way of a retainer;

- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
    - (i) travelling expenses incurred by the applicant between his home and place of employment;
    - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
  - (g) any award of compensation made under section 112(4) or 117(3) (a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
  - (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
  - (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
  - (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
  - (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
  - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.
- (2) Earnings does not include—
- (a) subject to sub-paragraph (3), any payment in kind;
  - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
  - (c) any occupational pension;
  - (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.
- (3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(l).

## Calculation of net earnings of employed earners:

26. (1) For the purposes of paragraph 21 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.
- (2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 19 of Schedule 11.
- (3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—
- (a) any amount deducted from those earnings by way of—
    - (i) income tax;
    - (ii) primary Class 1 National Insurance contributions under the SSCBA;
  - (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
  - (c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and
  - (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.
- (4) In this paragraph "qualifying contribution" means any sum which is payable periodically as a contribution towards a personal pension scheme.
- (5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined—
- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
  - (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- (6) Where the earnings of an applicant are estimated under paragraph 21(2)(b) (average weekly earnings of employed earners), his net earnings is to be calculated by taking into account those earnings over the assessment period,

less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 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 basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to 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 SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

### **Earnings of self-employed earners**

- 27.** (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.
- (2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 12 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor does it include any sports award.
- (3) This paragraph applies to—
- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
  - (b) any payment in respect of any—
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.
- (4) Where the applicant’s earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by—
- (a) the amount of reduction under this scheme to which the applicant would

have been entitled had the payment not been made, plus

- (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 11 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

**Calculation of income other than earnings:**

- 28.** (1) For the purposes of paragraph 25 (average weekly income other than earnings), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 29 (capital treated as income).
- (2) There is to be disregarded from the calculation of an applicant's gross income under sub-paragraph (1), any sum, where applicable, specified in Schedule 12.
  - (3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.
  - (4) Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, the amount of that benefit to be taken into account is the amount as if it had not been reduced.
  - (5) Where an award of any working tax credit or child tax credit under the Tax Credits Act is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
  - (6) In sub-paragraph (5), "tax year" means a period beginning with 6th April in one year and ending with 5th April in the next.
  - (7) Sub-paragraphs (8) and (9) apply where—
    - (a) a relevant payment has been made to a person in an academic year; and
    - (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
  - (8) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (8) applies, is to be calculated by applying the formula—

$$(A - (B \times C)) / D$$

Where—

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 55(5);

B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 55(2) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;

D = the number of reduction weeks in the assessment period.

- (9) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula in sub-paragraph (8) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 55(5).

- (10) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 7;

“assessment period” means—

(a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

(b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes—

(i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments



continued; or

- (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 48(7) or both.

- (11) For the avoidance of doubt there must be included as income to be taken into account under paragraph (1)—

- (a) any payment to which paragraph 25(2) (payments not earnings) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

### **Capital treated as income**

- 29. (1) Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with Chapter 3 of this Part exceeds £16,000, be treated as income.
- (2) Any payment received under an annuity is to be treated as income.
- (3) Any earnings to the extent that they are not a payment of income is to be treated as income.
- (4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.
- (5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments,

any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

**Notional income:**

30. (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of the reduction.
- (2) Except in the case of—
- (a) a discretionary trust;
  - (b) a trust derived from a payment made in consequence of a personal injury;
  - (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
  - (d) any sum to which paragraph 50(2)(a) of Schedule 13 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a);
  - (e) any sum to which paragraph 51(a) of Schedule 13 refers;
  - (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
  - (g) child tax credit;
  - (h) working tax credit, or
  - (i) any sum to which sub-paragraph (11) applies, any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.
- (3) Any payment of income, other than a payment of income specified in sub-paragraph (4),

**Made—**

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that

single applicant 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 applicant 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 applicant or member is liable;

- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be treated as possessed by that single applicant 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) Sub-paragraph (3) does not apply in respect of a payment of income made—
- (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
  - (c) pursuant to section 2 of the Employment and Training Act 1973 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 1996;
    - (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;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (g) under an occupational pension scheme, 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;

- (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 sub-paragraph (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 an applicant is in receipt of any 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 authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.
- (6) Subject to sub-paragraph (7), where—
- (a) an applicant 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 authority must treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.
- (7) Sub-paragraph (6) does not apply—
- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the 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 applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations; or
    - (ii) the applicant's or the applicant'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; or
  - (c) to an applicant 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.

- (8) In sub-paragraph (7)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.
- (9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part 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.
- (10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) the foregoing provisions of this Part 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 26(3) (calculation of net earnings of employed earners ) do not apply and his net earnings are to 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 basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 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 basic rate of tax is to be applied and the amount of the personal relief deductible under this subparagraph is to 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 applicant by way of a contribution towards an occupational or personal pension scheme.
- (11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant’s participation in a service user group.

### **Calculation of income on a weekly basis**

- 31.** (1) Subject to paragraph 34 (disregard of changes in tax, etc), the income of an applicant is to be calculated on a weekly basis—
- (a) by 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 paragraph 44; and
  - (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 32 (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 sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

- (2) The conditions of this paragraph are that—
  - (a) the applicant'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 applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.
- (3) The maximum deduction to which paragraph (1)(c) above refers is to be—
  - (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
  - (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.
- (4) For the purposes of paragraph (1) "income" includes capital treated as income under paragraph 39 (capital treated as income) and income which the applicant is treated as possessing under paragraph 30 (notional income).

### **Treatment of child care charges**

- 32.** (1) This paragraph applies where an applicant (within the meaning of this paragraph) 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 sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must 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 SSCBA;
  - (c) is paid an employment and support allowance;
  - (d) 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; or
  - (e) is 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.
- (3) This sub-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 benefit, an employment and support allowance 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 sub-paragraph (2)(d) or (e) 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 sub-paragraphs (6) and (7) apply, and is to be calculated on a weekly basis in accordance with subparagraph (10).
- (6) The charges are paid by the applicant for care which is provided—
- (a) in the case of any child of the applicant'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 applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- (7) The charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid—
- (a) in respect of the child's compulsory education;
  - (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with Section 1 paragraph 7 (circumstances in which a person is treated as

responsible or not responsible for another); or

- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.
- (8) The care to which sub-paragraph (7) refers may be provided—
- (a) out of school hours, by a school on school premises or by a local authority—
    - (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
    - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
  - (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999; or
  - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
- (ci) by persons registered under Part 10A of the Children act 1989; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
  - (e) by—
    - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
    - (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act; or
  - (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
  - (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
  - (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
  - (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part



3 of that Act does not apply by virtue of section 53(2) of that Act; or

- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
  - (k) by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
  - (l) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002; or
  - (m) by a person who is not a relative of the child wholly or mainly in the child’s home.
- (9) In sub-paragraphs (6) and (8)(a), “the first Monday in September” means the Monday which first occurs in the month of September in any year.
- (10) Relevant child care charges must be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.
- (11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) the applicant is not a pensioner; the applicant’s applicable amount includes a disability premium on account of the other member’s incapacity or the support component or the work-related activity component on account of his having limited capability for work;
  - (b) the applicant is not a pensioner, the applicant’s applicable amount would include a disability premium on account of the other member’s incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (c) the applicant’s applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
  - (d) the applicant is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and

for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;

- (e) the applicant has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (f) There is payable in respect of him one or more of the following pensions or allowances—
  - (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
  - (ii) attendance allowance under section 64 of the SSCBA;
  - (iii) severe disablement allowance under section 68 of the SSCBA;
  - (iv) disability living allowance under section 71 of the SSCBA;
  - (v) personal independence payment under Part 4 of the Welfare Reform Act 2012;
  - (vi) increase of disablement pension under section 104 of the SSCBA;
  - (vii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), or (v) above;
  - (viii) main phase employment and support allowance;
- (g) a pension or allowance to which sub-paragraph (ii), (iv), (v), (vi) or (vii) of paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
- (h) paragraph (f) or (g) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (i) he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the

Health and Personal Social Services (Northern Ireland) Order 1972.

- (12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
- (13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(e) applies to the applicant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
- (14) For the purposes of paragraphs (6) and (8)(a), a person is disabled if he is a person—
- (a) in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because he is a patient;
  - (b) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
  - (c) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.
- (15) For the purposes of sub-paragraph (1) a woman on maternity leave, paternity leave or adoption leave is to be treated as if she is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided that—
- (a) in the week before the period of maternity leave, paternity leave or adoption leave began she was in remunerative work;
  - (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
  - (c) she is entitled to either statutory maternity pay under section 164 of the SSCBA, statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.
- (16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and

ends on—

- (a) the date that leave ends;
- (b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support (if relevant), statutory maternity pay, statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
- (c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credit ends, whichever occurs first.

(17) In sub-paragraphs (15) and (16)—

- (a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations; and
- (b) “child care element” of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element).

(18) In this paragraph “applicant” does not include an applicant –

- (a) who has, or
- (b) who (jointly with his partner) has,  
an award of universal credit.

### **Calculation of average weekly income from tax credits**

- 33.** (1) This paragraph applies where an applicant receives a tax credit.
- (2) Where this paragraph applies, the period over which a tax credit is to be taken into account must be the period set out in sub-paragraph (3).
  - (3) Where the instalment in respect of which payment of a tax credit is made is—
    - (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
    - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
    - (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
    - (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

- (4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

### **Disregard of changes in tax, contributions etc**

**34.** In calculating the applicant’s income the authority may disregard any legislative change—

- (a) in the basic or other rates of income tax;
- (b) in the amount of any personal tax relief;
- (c) in the rates of social security contributions payable under the SSCBA or in the lower earnings limit or upper earnings limit for Class 1 contributions under that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions);
- (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the SSCBA;

(a) in the maximum rate of child tax credit or working tax credit,

for a period not exceeding 30 reduction weeks beginning with the benefit week immediately following the date from which the change is effective.

### **Calculation of net profit of self-employed earners**

**35.** (1) For the purposes of paragraph 22 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners’ Benefits) Regulations 1975, his share of the net profit derived from that employment, less—
  - (i) an amount in respect of income tax and of social security contributions payable under the Act calculated in accordance with paragraph 36 (deduction of tax and contributions for self-employed earners); and
  - (ii) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(2) There shall be disregarded from a claimant’s net profit, any sum, where

applicable, specified in paragraphs 1 to 16 of Schedule 11.

- (3) For the purposes of sub-paragraph (1)(a) the net profit of the employment shall, except where sub-paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less—
- (a) subject to sub paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
  - (b) an amount in respect of—
    - (i) income tax; and
    - (ii) social security contributions payable under the Act, calculated in accordance with paragraph 36 (deduction of tax and contributions for self-employed earners); and
  - (c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.
- (4) For the purposes of sub-paragraph (1)(b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- (5) Subject to paragraph (6), no deduction shall be made under sub-paragraph (3)(a) or (4), in respect of—
- (a) any capital expenditure;
  - (b) the depreciation of any capital asset;
  - (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
  - (d) any loss incurred before the beginning of the assessment period;
  - (e) the repayment of capital on any loan taken out for the purposes of the employment;
  - (f) any expenses incurred in providing business entertainment; and
  - (g) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.
- (6) A deduction shall be made under sub-paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—
- (a) the replacement in the course of business of equipment or machinery; and
  - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

- (7) The authority shall refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- (8) For the avoidance of doubt—
- (a) a deduction shall not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
  - (b) a deduction shall be made thereunder in respect of—
    - (i) the excess of any value added tax paid over value added tax received in the assessment period;
    - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
    - (iii) any payment of interest on a loan taken out for the purposes of the employment.
- (9) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
    - (i) income tax; and
    - (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 36 (deduction of tax and contributions for self-employed earners); and
  - (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.
- (10) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.
- (11) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this sub-paragraph the daily amount of the qualifying premium shall be determined—
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;

- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

(12) In this sub-paragraph, “qualifying premium” means any premium which is payable periodically in respect of a retirement annuity contract or a personal pension scheme and is so payable on or after the date of claim.

### **Calculation of deduction of tax and contributions of self-employed earners**

**36.** (1) The amount to be deducted in respect of income tax under paragraph 35(1)(b)(i), (3)(b)(i) or (9) (a)(i) (calculation of net profit of self-employed earners) must be calculated—

- (a) on the basis of the amount of chargeable income, and
- (b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances.

(2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.

(3) The amount to be deducted in respect of social security contributions under paragraph 35 (1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant’s chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.

(4) In this paragraph “chargeable income” means—

- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 35;



- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

## CHAPTER 4

### Capital

#### Calculation of capital

37. (1) The capital of an applicant to be taken into account must be, subject to subparagraph (2), the whole of his capital calculated in accordance with this Part and any income treated as capital under paragraph 38 (income treated as capital).
- (2) There must be disregarded from the calculation of an applicant's capital under subparagraph (1), any capital, where applicable, specified in Schedule 13.
- (3) The capital of a child or young person who is a member of the family of an applicant must not be treated as capital of the applicant.

#### Income treated as capital

38. (1) Any bounty derived from employment to which paragraph 9 of Schedule 11 applies and paid at intervals of at least one year is to 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 is to be treated as capital.
- (3) Any holiday pay which is not earnings under paragraph 25(1)(d) (earnings of employed earners) is to be treated as capital.
- (4) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 13, any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- (5) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to 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 or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, is to be treated as capital.
- (7) There is to 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 during the period in which that person was receiving such assistance.
- (8) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

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

### **Calculation of capital in the United Kingdom**

- 39.** Capital which an applicant possesses in the United Kingdom is to 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.

### **Calculation of capital outside the United Kingdom**

- 40.** Capital which an applicant possesses in a country outside the United Kingdom will 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**

- 41.** (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraph 42 (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
  - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 13; or
  - (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
  - (e) any sum to which paragraph 50(2)(a) of Schedule 13 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a); or
  - (f) any sum to which paragraph 51(a) of Schedule 13 refers; or
  - (g) child tax credit; or

(h) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by him, is to 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 sub-paragraph (4), made—

(a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;

(b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant 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 applicant 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 applicant or member is liable;

(c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant 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) Sub-paragraph (3) does not apply in respect of a payment of capital made—

(a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund;

(b) pursuant to section 2 of the Employment and Training Act 1973 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 1996;

(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;

(iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or

- (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (f) under an occupational pension scheme, 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;
    - (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 an applicant 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 must, notwithstanding paragraph 37 (calculation of capital) be disregarded; and
  - (b) he must, subject to sub-paragraph (8), 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 Chapter 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 applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (7) is to be disregarded.
- (7) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

## Diminishing notional capital rule

42. (1) Where an applicant is treated as possessing capital under paragraph 41(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 sub-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 sub-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 sub-paragraph (4) is satisfied,

shall be reduced by the amount determined under sub-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 a reduction under the authorities scheme; and

(b) but for paragraph 41(1), he would have received an additional amount of reduction in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction for the purposes of sub-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 sub-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);

(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 sub-

paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) 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).
- (4) Subject to sub-paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to a reduction under the authorities scheme in the relevant week but for paragraph 41(1), and in such a case the amount of the reduction in notional capital shall be equal to the aggregate of—
- (a) the amount of council tax reduction to which the claimant would have been entitled in the relevant week but for paragraph 41(1); 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 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 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 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;
  - (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 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.
- (5) The amount determined under sub-paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for council tax reduction under the authority's scheme and the conditions in paragraph (6) are satisfied, and in such a case—
- (a) sub-paragraphs (a) to (d) of paragraph (4) shall apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and
  - (b) subject to sub-paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.
- (6) The conditions are that—
- (a) a further claim is made 26 or more weeks after—
    - (i) the date on which the claimant made a claim for council tax reduction under the authority's scheme in respect of which he was first treated as possessing the capital in question under paragraph 41(1);
    - (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (5), the date on which he last made a claim for council tax reduction under the authority's scheme which resulted in the weekly amount being re-determined, or
    - (iii) the date on which he last ceased to be entitled to council tax reduction under the authority's scheme, whichever last occurred; and
  - (b) the claimant would have been entitled to council tax reduction under the authority's scheme but for paragraph 41(1).
- (7) The amount as re-determined pursuant to sub-paragraph (5) shall not have



effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(8) For the purposes of this paragraph—

(a) "part-week"—

(i) in sub-paragraph (4)(a) means a period of less than a week for which council tax reduction under the authority's scheme is allowed;

(ii) in sub-paragraph (4)(b) means a period of less than a week for which housing benefit is payable;

(iii) in sub-paragraph (4)(c), (d) and (e) means—

(aa) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and

(bb) any other period of less than a week for which it is payable;

(b) "relevant week" means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of paragraph 41(1)—

(i) was first taken into account for the purpose of determining his entitlement to council tax reduction under the authority's scheme; or

(ii) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to council tax reduction under the authority's scheme on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax reduction under the authority's scheme;

and where more than one benefit week is identified by reference to heads (i) and (ii) of this subparagraph the later or latest such benefit week or, as the case may be, the later or latest such part week;

(c) "relevant subsequent week" means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

### **Capital jointly held**

**43.** Except where an applicant possesses capital which is disregarded under paragraph 41(5) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for

the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

### **Calculation of tariff income from capital**

44. (1) Where the capital of an applicant calculated in accordance with this Part exceeds £10,000, it must be treated as equivalent to a weekly income of £1 for each complete £500 in excess of £10,000 but not exceeding £16,000.
- (2) Notwithstanding sub-paragraph (1) where any part of the excess is not a complete £500 that part must be treated as equivalent to a weekly tariff income of £1.
- (3) For the purposes of sub-paragraph (1), capital includes any income treated as capital under paragraph 38 (income treated as capital).

## **PART 7**

### **Students**

#### **CHAPTER 1**

##### **General**

### **Interpretation**

45. (1) In this Part—

“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer;

“access funds” means—

- (a) grants made under section 68 of the Further and Higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980;
- (c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- (d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds

provided by the Young People's Learning Agency for England under sections 61 and 62 of the Apprenticeships, Skills, Children and Learning Act 2009 or the Chief Executive of Skills Funding under sections 100 and 101 of that Act; or

(e) financial Contingency Funds made available by the Welsh Ministers;

“college of further education” means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992;

“contribution” means—

- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or
- (b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following persons to contribute towards the holder's expenses—
  - (i) the holder of the allowance or bursary;
  - (ii) the holder's parents;
  - (iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or
  - (iv) the holder's spouse or civil partner;

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“covenant income” means the gross income payable to a full-time student under a Deed of Covenant by his parent;

“education authority” means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

“full-time course of study” means a full-time course of study which—

- (a) is not funded in whole or in part by the Young People's Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the

Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;

- (b) is funded in whole or in part by the Young People's Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
  - (i) in the case of a course funded by the Young People's Learning Agency for England or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those bodies for the delivery of that course; or
  - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

"full-time student" means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

"grant" (except in the definition of "access funds") means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 55 of Schedule 13 applies;

"grant income" means—

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

"higher education" means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

“last day of the course” means—

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
  - (i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
  - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year’s start and ending with the last day of the course;

“periods of experience” means periods of work experience which form part of a sandwich course;

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker’s Allowance Regulations ;

“sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

“standard maintenance grant” means—

- (a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (“the 2003 Regulations”) for such a student;

- (b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- (c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as "standard maintenance allowance" for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- (d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

"student" means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

"student loan" means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and includes, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulations 2007.

- (2) For the purposes of the definition of "full-time student" in sub-paragraph (1), a person must be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course—
  - (a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
    - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
    - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
  - (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.
- (3) For the purposes of sub-paragraph (a) of sub-paragraph (2), the period referred to in that sub-paragraph includes—

- (a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
  - (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.
- (4) In sub-paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

### **Treatment of students**

**46.** This scheme has effect in relation to students subject to paragraph 11 (Classes of person excluded from this scheme) and the following provisions of this Part.

### **Students who are excluded from entitlement to a council tax reduction under this scheme**

- 47.** (1) Subject to sub-paragraphs (2) and (6), for the purposes of paragraph 11 (Classes of person excluded from this scheme), this paragraph applies to full-time students and students who are persons treated as not being in Great Britain.
- (2) Sub-paragraph (1) does not apply to a student—
- (a) who is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance;
  - (b) who is a lone parent;
  - (c) whose applicable amount would, but for this regulation, include the disability premium or severe disability premium;
  - (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
  - (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
  - (f) who has, or is treated as having, limited capability for work and has had,

or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;

- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
  - (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
  - (i) who is—
    - (i) aged under 21 and whose course of study is not a course of higher education, or
    - (ii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);
  - (j) in respect of whom—
    - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
    - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
    - (iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
    - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
    - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986, on account of his disability by reason of deafness.
- (3) For the purposes of sub-paragraph (2)(i)(i) the student must have begun, or been enrolled or accepted onto, the course before attaining the age of 19.



- (4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.
- (5) In sub-paragraph (2)(i) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) A full-time student to whom paragraph (i) of sub-paragraph (2) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.
- (7) Sub-paragraph (1) does not apply to a full-time student for the period specified in sub-paragraph (8) if—
  - (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
    - (i) engaged in caring for another person; or
    - (ii) ill;
  - (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
  - (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).
- (8) The period specified for the purposes of sub-paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—
  - (a) the day on which he resumes attending or undertaking the course; or
  - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, whichever shall first occur.

## CHAPTER 2

### Income

#### Calculation of grant income

48. (1) The amount of a student's grant income to be taken into account must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.
- (2) There must be excluded from a student's grant income any payment—
- (a) intended to meet tuition fees or examination fees;
  - (b) in respect of the student's disability;
  - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
  - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant;
  - (i) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.
- (3) Where a student does not have a student loan and is not treated as possessing such a loan, there must be excluded from the student's grant income—
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- (4) There must also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- (5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—

- (a) subject to sub-paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
  - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- (6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- (7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither sub-paragraph (6) nor paragraph 52(2) (other amounts to be disregarded) applies, must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- (8) In the case of a student on a sandwich course, any periods of experience within the period of study must be excluded and the student's grant income must be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.
- (9) The figures stated in sub-paragraph 3 in respect of travel costs, books and equipment will be uprated at the same time and to the same rate as is used in the Housing Benefit scheme. The current rate used for housing benefit will apply if it is different to what is stated in sub-paragraph 3.

### **Calculation of covenant income where a contribution is assessed**

49. (1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.
- (2) The weekly amount of the student's covenant must be determined—

- (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
  - (b) by disregarding £5 from the resulting amount.
- (3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 48(2)(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

### **Covenant income where no grant income or no contribution is assessed**

50. (1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—
- (a) any sums intended for any expenditure specified in paragraph 48(2)(a) to (e) (calculation of grant income) necessary as a result of his attendance on the course must be disregarded;
  - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;
  - (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 48(2)(f) and (3) (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
  - (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.
- (2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with sub-paragraphs (a) to (d) of sub-paragraph (1), except that—
- (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 48(2)(a) to (e); and
  - (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 48(2)(f) and (g) and (3).

### **Relationship with amounts to be disregarded under Schedule 12**

51. No part of a student's covenant income or grant income shall be disregarded under paragraph 19 of Schedule 12.

## Other amounts to be disregarded

52. (1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 55 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 48(2) (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded.
- (2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 48(2) or (3), 49(3), 50(1)(a) or (c) or 53(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

## Treatment of student loans

53. (1) A student loan is to be treated as income.
- (2) In calculating the weekly amount of the loan to be taken into account as income—
- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
- (i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
- (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course,
- and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period—
- (i) beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year, and
- (ii) ending with the reduction week, the last day of which coincides with or immediately precedes, the last day of that academic year, but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of the authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2005;
- (c) in respect of the final academic year of a course (not being a course of a

single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—

- (i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year;
  - (ii) where the final academic year starts on 1st September, the reduction week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (d) in any other case, the loan is to be apportioned equally between the weeks in the period beginning with the earlier of—
- (i) the first day of the first reduction week in September; or
  - (ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term,

and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of June, and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.

(3) A student is to be treated as possessing a student loan in respect of an academic year where—

- (a) a student loan has been made to him in respect of that year; or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

(4) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-paragraph (5)—

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—
  - (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
  - (ii) any contribution whether or not it has been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
  - (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and

- (ii) no deduction in that loan was made by virtue of the application of a means test.
- (5) There must be deducted from the amount of income taken into account under sub-paragraph (4)—
  - (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the cost of books and equipment,

whether or not any such costs are incurred.
- (6) The figures stated in sub-paragraph 5 in respect of travel costs, books and equipment will be updated at the same time and to the same rate as is used in the Housing Benefit scheme. The current rate used for housing benefit will apply if it is different to what is stated in sub-paragraph 3.

#### **54 Treatment of fee loans**

A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations under Article 3 of the Education (Student Support)(Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 72(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

#### **Treatment of payments from access funds**

- 55.** (1) this paragraph applies to payments from access funds that are not payments to which paragraph 58(2) or (3) (income treated as capital) applies.
- (2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.
- (3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 12—
- (a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family, and
  - (b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable,
- must be disregarded as income to the extent of £20 per week.
- (4) Where a payment from access funds is made—
- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and

that payment is intended for the purpose of bridging the period until receipt of the student loan; or

- (b) before the first day of the course to a person in anticipation of that person becoming a student,

that payment must be disregarded as income.

### **Disregard of contribution**

- 56. Where the applicant or his partner is a student and, for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution must be disregarded for the purposes of assessing that other partner's income.

### **Further disregard of student's income**

- 57. Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant or student loan, the amount taken into account must be disregarded in assessing that student's income.

### **Income treated as capital**

- 58. (1) Any amount by way of a refund of tax deducted from a student's covenant income must be treated as capital.
- (2) An amount paid from access funds as a single lump sum must be treated as capital.
- (3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, must be disregarded as capital but only for a period of 52 weeks from the date of the payment.

### **Disregard of changes occurring during summer vacation**

- 59. In calculating a student's income the authority must disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

## **PART 8**

### **Extended reductions**

#### **Extended reductions**

- 60. (1) An applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction



where—

- (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
  - (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from such employment; or
    - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and
  - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.
- (2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.
- (3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they shall be treated as being entitled to and in receipt of jobseeker's allowance.
- (4) An applicant must be treated as entitled to a reduction under this scheme by virtue of the general conditions of entitlement where—
- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).
- (5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987 (remunerative work: housing costs) applied to that applicant.

### **Duration of extended reduction period**

- 61.** (1) Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.
- (2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The extended reduction period ends—
- (a) at the end of a period of four weeks; or
  - (b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

### **Amount of extended reduction**

- 62.** (1) For any week during the extended reduction period the amount of the extended reduction to which an applicant is entitled is to be the higher of—
- (a) the amount of the reduction under this scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
  - (b) the amount of reduction under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if paragraph 60 (extended reductions) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 60 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction under this paragraph and the applicant's partner makes a claim for a reduction under this scheme, no amount of reduction under this scheme is to be awarded by the authority during the extended reduction period.

### **Extended reductions—movers**

- 63.** (1) This paragraph applies—
- (a) to a mover; and
  - (b) from the Monday following the day of the move.

- (2) The amount of the extended reduction awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme to which the mover was eligible for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a billing authority other than this one, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—
  - (a) the second authority; or
  - (b) the mover directly.
- (4) Where—
  - (a) a mover, or the mover's partner, makes a claim for council tax reduction to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit; and
  - (b) the mover, or the mover's partner, is in receipt of an extended reduction from the appropriate authority,

the second authority shall reduce the weekly amount of council tax reduction that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction until the end of the extended payment period.

**Relationship between extended reduction and entitlement to reduction under the general conditions of entitlement**

64. (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 60(1)(b), that entitlement does not cease until the end of the extended reduction period.
- (2) Paragraphs 71 and Paragraph 4 of Schedule 8 do not apply to any extended reduction payable in accordance with paragraph 60(1)(a) or 63(2).

**Extended reductions (qualifying contributory benefits)**

65. (1) An applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction (qualifying contributory benefits) where—
  - (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
  - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—

- (i) commenced employment as an employed or self-employed earner;
  - (ii) increased their earnings from such employment; or
  - (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
  - (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of the general conditions of entitlement where—
- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

**Duration of extended reduction period (qualifying contributory benefits)**

- 66.** (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.
- (2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The extended reduction period ends—
- (a) at the end of a period of four weeks; or
  - (b) on the date on which the applicant entitled to the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

### **Amount of extended reduction (qualifying contributory benefits)**

67. (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant is to be the greater of—
- (a) the amount of reduction under this scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
  - (b) the amount of reduction under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if paragraph 65 (extended reductions qualifying contributory benefits) did not apply to the applicant; or
  - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 65 did not apply to the applicant.

### **Extended reductions (qualifying contributory benefits) -movers**

68. (1) This paragraph applies—
- (a) to a mover; and
  - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was awarded to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to another authority, the extended reduction (qualifying contributory benefits) may take the form of a reduction from this authority to—
- (a) that other authority; or
  - (b) the mover directly.
- (4) Where—
- (a) a mover, or the mover's partner, makes a claim for council tax reduction to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit; and
  - (b) the mover, or the mover's partner, is in receipt of an extended reduction from the appropriate authority,

the second authority shall reduce the weekly amount of council tax reduction that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction until the end of the extended payment period.

### **Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction under the general conditions of entitlement**

69. (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 65(1)(b), that reduction does not cease until the end of the extended reduction period.
- (2) Paragraph 72 of this Schedule and Paragraph 4 of Schedule 8 do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 62(1)(a) or 63(2) (amount of extended reduction—movers).

### **Extended reductions: movers into the authority's area**

70. Where—

- (a) an application is made to a billing authority ("the current authority") for a reduction under this scheme, and
- (b) the applicant, or the partner of the applicant, is in receipt of an extended reduction from—
- (i) another billing authority in England;
  - (ii) a billing authority in Wales;
  - (iii) a local authority in Scotland, or
  - (iv) a local authority in Northern Ireland,

the current billing authority must reduce any reduction to which the applicant is entitled under this scheme by the amount of that extended reduction.

## **PART 9**

### **Period of entitlement and change of circumstances**

#### **Date on which entitlement begins**

71. (1) Subject to sub-paragraph (2), any person to whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction shall be so entitled from the reduction week following the date on which that application is made or is treated as made under

paragraph 76 or 77.

- (2) Where a person is otherwise entitled to a reduction under this scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he shall be so entitled from that reduction week.

### **Date on which a change of circumstances is to take effect**

- 72.** (1) Except in cases where paragraph 34 (disregard of changes in tax, contributions, etc) applies and subject to the following provisions of this paragraph and also subject to section 3 (effective date for late notification of a change in circumstances), a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.
- (2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
  - (3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
  - (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 11A (discounts) of that Act, it takes effect from the day on which the change in amount has effect.
  - (5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
  - (6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
  - (7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (2) to (6) above refers, or, where more than one day is concerned, from the earlier day.
  - (8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authorities scheme.
  - (9) Without prejudice to sub-paragraph (8), where the change of circumstances is

the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authority's scheme.

(10) Sub-paragraph (11) applies if—

(a) the applicant or the applicant's partner has attained the age of 65; and

(b) either—

(i) a non-dependant took up residence in the applicant's dwelling; or

(ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 8 (non dependent deductions) increased.

(11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

(12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—

(a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—

(i) the date on which the applicant's entitlement to a reduction under the authority's scheme first began;

or

(ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;

(b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.

(13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is the first day of the next reduction week to commence after the date determined under that sub-paragraph.

### **Duty to notify changes of circumstances**

**73.** The duty to notify a change of circumstances is as set out in Paragraph 9 of Schedule 8.



## **PART 10**

### **Applications**

#### **Procedure by which a person may apply for a reduction under the authority's scheme**

**74.** The procedure by which a person may apply for a reduction under the authority's scheme is as set out in paragraphs 2 to 8 of schedule 7.

#### **Who may make an application**

**75.** Who may make an application is as set out in Paragraph 6 of Schedule 8.

#### **Date on which an application is made**

**76. (1)** Subject to sub-paragraph (7), the date on which an application is made is—

(a) in a case where—

- (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
- (ii) the application for a reduction under this scheme is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received at the appropriate DWP office,

the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

(b) in a case where—

- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application to the authority is received at the authority's offices within one month of the date of the change,

the date on which the change takes place;

(c) In a case where—

- (i) the applicant is the former partner of a person who was, at the date of

his death or their separation, entitled to a reduction under this scheme, and

- (ii) where the applicant makes an application for a reduction under this scheme within one month of the date of the death or the separation,

the date of the death or separation;

- (d) except where paragraph (a), (b) or (f) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (e) A claim for Council Tax Benefit in respect of which there is an award of entitlement at the end of the day of 31 March 2013, or in respect of which no decision has been made, will be treated as a claim for Council Tax Reduction from 1 April 2013. This may apply to claims for Council Tax Benefit which by 31 March 2013 have been refused as having no entitlement but are subsequently revised so there is entitlement at 31 March 2013.
- (f) In any other case, the date on which the application is received at the offices of the authority.

- (2) For the purposes only of sub-paragraph (1)(a) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
- (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),

have been entitled to that allowance.

- (3) Where the defect referred to in paragraph 8 of Schedule 7 to this scheme—

- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance;
- (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide on the

application.

- (4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in subparagraph (5)(a), (b) or (c) are satisfied.
- (5) The conditions are that—
  - (a) where paragraph 4(a) of Schedule 7 (incomplete form) applies, the authority receives at the offices of the authority the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
  - (b) where paragraph 4(b) of Schedule 7 (application not on approved form or further information requested by authority) applies—
    - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be,
    - (ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request,or, in either case, within such longer period as the authority may consider reasonable; or
  - (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- (6) Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under this scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority is to treat the application as having been made on the day on which the liability for the tax arises.
- (7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under this scheme for a period beginning not later than the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.
- (8) In the case of a person who has attained, or whose partner has attained the age

which is 17 weeks younger than the qualifying age for state pension credit, sub paragraph 7 shall apply as if for the reference to the thirteenth reduction week, there was substituted a reference to the seventeenth reduction week.

### **Back-dating of applications**

**77.** (1) Where an applicant—

- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with sub-paragraph (2).

(2) That date is the latest of—

- (a) the first day from which the applicant had continuous good cause;
- (b) the day 3 months before the date the claim was made;
- (c) the day 3 months before the date when the applicant requested that the application should include a past period.

### **Evidence and information**

**78.** Evidence and information is as set out in Paragraph 7 of Schedule 8

### **Amendment and withdrawal of application**

**79.** Amendment and withdrawal of application is as set out in Paragraph 8 of Schedule 8.

## **PART 11**

### **Electronic Communication**

#### **Electronic Communication**

**80.** The provisions for use of electronic communication are as set out in paragraphs 10, 11, 12, 13, 14, 15 and 16 of schedule 7

## **PART 12**

### **Decisions by the authority**

#### **Decisions by authority**

81. Decisions by authority is as set out in Paragraph 11 of Schedule 8.

#### **Notification of decision**

82. Notification of Decision is as set out in Paragraph 12 of Schedule 8

#### **Procedure by which a person may make an appeal against certain decisions of the authority**

83. The procedure for making an appeal is set out in paragraph 9 of schedule 7.

## **PART 13**

### **Award or payment of reduction**

#### **Time and manner of granting reduction under a scheme**

84. The time and manner of granting a reduction under this scheme is set out in Paragraph 14 of Schedule 8.

#### **Person to whom reduction is to be paid**

85. The person to whom a reduction is to be paid is as set out in paragraph 15 of Schedule 8.

#### **Shortfall in reduction**

86. The method for dealing with a shortfall in reduction is as set out in paragraph 16 of schedule 8.

#### **Payment on death to the person entitled**

87. The provision for making payment following the death of the person entitled is as set out in paragraph 17 of schedule 8.

## **PART 14**

### **Procedure for applying for a discretionary reduction**

#### **Procedure for applying for a discretionary reduction under section 13A(1)(c) of the 1992 Act**

88. The procedure is as set out in paragraph 9 of schedule 7

**SCHEDULE 10**  
Paragraph 12 & 13

**Applicable amounts: persons who are not pensioners**  
**PART 1**  
Personal allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of paragraphs 12(1)(a) and 13(1)(a) and (b)—
2. For the purposes of paragraph 1 of this Schedule an applicant is entitled to main phase employment and support allowance if—
  - (a) paragraph 18 of this Schedule is satisfied in relation to the applicant; or
  - (b) the applicant is entitled to a converted employment and support allowance.

<i>Column (1) Person or couple</i>	<i>Column (2) Amount</i>
(1) A single applicant who— (a) is entitled to main phase employment and support allowance; (b) is aged not less than 25; (c) is aged not less than 18 but less than 25.	£71.70; £71.70; £56.80.
(2) Lone parent.	£71.70.
(3) Couple.	£112.55.

3. (1) The amounts specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of paragraphs 12(1)(b) and 13(1)(c) of this scheme—
- (2) In column (1) of the table in sub-paragraph (1), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

<i>Column (1) Child or Young person</i>	<i>Column (2) Amount</i>
Person in respect of the period—  (a) beginning on that person’s date of birth and ending on the day preceding the first Monday in September following that person’s sixteenth birthday;	£65.62
(b) beginning on the first Monday in September following that person’s sixteenth birthday and ending on the day preceding that person’s twentieth birthday.	£65.62

## PART 2

### Family premium

4. (1) The amount for the purposes of paragraphs 12(1)(c) and 13(1)(d) in respect of a family of which at least one member is a child or young person shall be—
- (a) where the applicant is a lone parent to whom sub-paragraph (2) applies, £22.20;
  - (b) in any other case, £17.40.
- (2) The amount in sub-paragraph (1)(a) shall be applicable to a lone parent—
- (a) who was entitled to council tax benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit Regulations 2006 as in force on that date; or
  - (b) on becoming entitled to council tax benefit where that lone parent—
    - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (3) as at the day before the date of claim for that benefit; and
    - (ii) was entitled to housing benefit as at the date of claim for council tax benefit or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006,and in respect of whom, all of the conditions specified in sub-paragraph (4) have continued to apply.
- (3) The conditions specified for the purposes of sub-paragraph (2) are that, in respect of the period commencing on 6th April 1998—
- (a) the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to council tax benefit;
  - (b) the applicant has not ceased to be a lone parent;
  - (c) where the applicant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or income-related employment and support allowance or a combination of those benefits;
  - (d) where the applicant was not entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has not become entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance; and

- (e) a premium under paragraph 9 of this Schedule or a component under paragraph 21 or 22 of this Schedule has not become applicable to the applicant.
- (4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant shall be treated as entitled to council tax benefit during any period where he was not, or had ceased to be, so entitled and—
- (a) throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations 2006 (lone parent rate of family premium); or
  - (b) he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006 and his applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

### **PART 3** Premiums

5. Except as provided in paragraph 6 of this Schedule, the premiums specified in Part 4 of this Schedule shall, for the purposes of paragraphs 12(1)(d) and 13(1)(e) of this scheme, be applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 of this Schedule in respect of that premium.
6. Subject to paragraph 7 of this Schedule, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.
7. The following premiums, namely—
- (a) a severe disability premium to which paragraph 11 of this Schedule applies;
  - (b) an enhanced disability premium to which paragraph 12 of this Schedule applies;
  - (c) a disabled child premium to which paragraph 13 of this Schedule applies; and
  - (d) a carer premium to which paragraph 14 of this Schedule applies,
- may be applicable in addition to any other premium which may apply under this Schedule.
8. (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for—
- (a) in the case of a benefit to which the Social Security (Overlapping Benefits)



- Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.
- (2) For the purposes of the carer premium under paragraph 14 of this Schedule, a person shall be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

### **Disability premium**

#### **9. The condition is that—**

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 of this Schedule is satisfied; or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 (1)(a) or (b) is satisfied by him; or
  - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner.

### **Additional condition for the disability premium**

#### **10. (1) Subject to sub-paragraph (2) and paragraph 8 of this Schedule, the additional condition referred to in paragraph 9 of this Schedule is that either—**

- (a) The applicant or, as the case may be, his partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe

disablement allowance, only where it is paid in respect of him; or

- (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant has since remained continuously entitled to council tax benefit or council tax reduction and, if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
  - (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 32(11)(g) (treatment of child care charges); or
  - (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 32(11)(g) (treatment of child care charges); or
  - (v) is provided by the Secretary of State with an invalid carriage or other vehicle under section 5(2) of the National Health Service Act 1977 (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or
  - (vi) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (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; or
- (b) the applicant—
- (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and
  - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
    - (aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;
    - (bb) in any other case, 364 days.

- (2) For the purposes of sub-paragraph (1)(a)(vi), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.
- (3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).
- (4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.
- (5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.
- (6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.
- (7) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990.
- (8) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—
  - (a) the reference to a period of 8 weeks in sub-paragraph (3); and
  - (b) the reference to a period of 56 days in sub-paragraph (5),shall in each case be treated as a reference to a period of 104 weeks.
- (9) The applicant is not entitled to the disability premium if he has, or is treated as

having, limited capability for work.

### **Severe disability premium**

11. (1) The condition is that the applicant is a severely disabled person.
- (2) For the purposes of sub-paragraph (1), an applicant shall be treated as being a severely disabled person if, and only if—
- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
- (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
- (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
- (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;
- (b) in the case of an applicant who has a partner—
- (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
- (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
- (iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,
- and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.
- (3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(vi) and (2), that partner shall be treated for the

purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

- (4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of—
  - (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA; or
  - (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(vi) and (2).
- (5) For the purposes of sub-paragraph (2)(b) a person shall be treated—
  - (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
  - (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.
- (6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of carer's allowance to the extent that payment of such an award is backdated for a period before the date on which the award is first paid.
- (7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).

### **Enhanced disability premium**

12. (1) Subject to sub-paragraph (2), the condition is that—
  - (a) the Secretary of State has decided that the applicant 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 be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—
    - (i) the applicant; or
    - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—

- (i) the applicant; or
- (ii) a member of the applicant's family,

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

- (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 applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).
- (3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—
  - (a) an applicant who—
    - (i) is not a member of a couple or a polygamous marriage; and
    - (ii) is a patient within the meaning of this scheme 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 this scheme and has been for a period of more than 52 weeks.

### **Disabled child premium**

- 13. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—
  - (a) is in receipt of disability living allowance or personal independence payment 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 10 of this Schedule; or
  - (c) is a child or young person in respect of whom section 145A of the SSCBA (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 applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

## **Carer premium**

- 14.** (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.
- (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 that 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 an application for a reduction, 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**

- 15.** For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14 of this Schedule, 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**

- 16.** 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>
<b>17.—</b>	
(1) Disability Premium—	
(a) where the applicant satisfies the condition in paragraph 9(a);	£31.00
(b) Where the applicant satisfies the condition in paragraph 9(b).	£44.20
(2) Severe Disability Premium—	
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	£59.50;
(b) where the applicant satisfies the condition in paragraph 11(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 11(5);	£59.50;
(ii) In a case where there is no-one in receipt of such an allowance.	£119.00.
(3) Disabled Child Premium	£57.89 in respect of each child or young person in respect of whom the condition specified in paragraph 13 of Part 3 of this Schedule is satisfied.
(4) Carer Premium.	£33.30 in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	£23.45 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;
	£15.15 in respect of each person who is neither—
	(i) a child or young person; nor
	(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 12 are satisfied;
	£21.75 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.



## PART 5

### The components

- 18.** Subject to paragraph 20 of this Schedule the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 of this Schedule if—
- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
  - (b) the Secretary of State has decided that the applicant or the applicant'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 2008 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.
- 19.** Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.
- 20.** (1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10 of this Schedule.
- (2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

### The work-related activity component

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

### The support component

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

## PART 6

### Amount of Components

- 23.** The amount of the work-related activity component is £28.45.
- 24.** The amount of the support component is £34.80.

**PART 7**  
**Transitional Addition**

- 25.** (1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 28 where the applicant or the applicant'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 (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No 2) Regulations 2008 and—
    - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Existing Awards) Regulations 2008; and
    - (ii) is not in receipt of an income-related employment and support allowance,unless the amount of the transitional addition calculated in accordance with paragraph 28 of this Schedule would be nil.
- (2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29 of this Schedule;
  - (b) the termination of the applicant's award of reduction under this scheme;
  - (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
  - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
  - (e) 5th April 2020.
- 26.** (1) This paragraph applies where—
- (a) the applicant's entitlement to a transitional addition, ends by virtue of the termination of the applicant's award of reduction, under—
    - (i) paragraph 25(2)(b) of this Schedule;
    - (ii) sub-paragraph (3)(b) of this paragraph; or

- (iii) paragraph 27(3)(b) of this Schedule;
  - (b) Within 104 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to a reduction under this scheme;
  - (c) in the reduction week in which the applicant again becomes entitled to a reduction under this scheme the relevant person is entitled to an employment and support allowance which is not income-related;
  - (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where applicant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
  - (e) at the date on which the applicant again becomes entitled to a reduction under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.
- (2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.
- (3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29 of this Schedule;
  - (b) the termination of the applicant's award of a reduction under this scheme;
  - (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
  - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
  - (e) 5th April 2020.

**27. (1) This paragraph applies where—**

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
  - (i) paragraph 25(2)(c) of this Schedule;

- (ii) paragraph 26(3)(c) of this Schedule; or
    - (iii) sub-paragraph (3)(c) of this paragraph;
  - (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
  - (c) either—
    - (i) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations applies to the relevant person; or
    - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
  - (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.
- (2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29 of this Schedule), unless the amount of the transitional addition would be nil.
- (3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29 of this Schedule;
  - (b) the termination of the applicant's award of a reduction under this scheme;
  - (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
  - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
  - (e) 5th April 2020.

**PART 8**  
**Amount of Transitional Addition**

- 28.** (1) Subject to paragraph 29 of this Schedule, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.
- (2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the relevant person—
- (a) amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) amount B is the basic amount that applied on that day as a result of that decision.
- (3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations—
- (a) amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) amount B is the basic amount that applied on that day as a result of the relevant person being so treated.
- (4) In this paragraph and paragraph 29, “basic amount” means the aggregate of such amounts as may apply in the applicant’s case in accordance with paragraph 14(1)(a) to (e) or paragraph 15(1)(a) to (f) of this scheme.
- 29.** (1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant’s basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which Amount C exceeds Amount D.
- (2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.
- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.

# SCHEDULE 11

## Paragraph 26(2) & 35(2)

### Sums disregarded in the calculation of earnings

1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

- (i) the employment has been terminated because of retirement; and
- (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to a reduction under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) any payment of the nature described in—

(aa) paragraph 27(1)(e) of this scheme, or

(bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and

(ii) any award, sum or payment of the nature described in—

(aa) paragraph 25(1)(g) or (i), or

(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to a reduction under this scheme—

(i) the employment has not been terminated, but

(ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule or paragraph 25(1)(j) or (k) of this scheme.

2. In the case of an applicant who, before the first day of entitlement to a reduction under this scheme—
  - (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
  - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,  
any earnings paid or due to be paid in respect of that employment except—
    - (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule;
    - (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule or paragraph 25(1)(j) or (k).
3. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 27(3) and (4) of this Scheme (earnings of self-employed earners) apply.
4. (1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.
  - (2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 10 (applicable amounts).
  - (3) This paragraph applies where—
    - (a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 10; and
    - (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5. In a case where the applicant is a lone parent, £25.
6. (1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under Schedule 10 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.  
  
(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.
7. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—
  - (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
  - (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.
8. In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.
9. (1) In a case where paragraphs 4, 5, 6, and 7 do not apply to the applicant, £20 of earnings derived from one or more employments as—
  - (a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
  - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
  - (c) an auxiliary coastguard in respect of coast rescue activities;



- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage); if this paragraph applies to an applicant it shall not apply to his partner except to the extent specified in subparagraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

**10.** Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

**11.** In a case to which none of the paragraphs 4 to 10 applies, £5.

**12.** (1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

(3) Notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it shall not apply to the other member of that couple ("B") except to the extent provided in sub-

paragraph (4).

- (4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.
- (5) This sub-paragraph applies to a person who is—
  - (a) in receipt of a contributory employment and support allowance;
  - (b) in receipt of incapacity benefit;
  - (c) in receipt of severe disablement allowance; or
  - (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.
- (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,

and, in determining for the purposes of this paragraph whether an applicant 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 subparagraph (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).
- 13.** Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 12 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
  - 14.** Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.
  - 15.** 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.

16. 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.
17. Any earnings of a child or young person.
18. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 of this Schedule shall be increased by £17.10.
- (2) The conditions of this sub-paragraph are that—
- (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or
- (b) the applicant—
- (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 4 of Schedule 10; or
- (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
- (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—
- (aa) the applicant's applicable amount includes a disability premium under paragraph 10, the work-related activity component under paragraph 23 or the support component under paragraph 24 of Schedule 10 respectively;
- (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in paragraph (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
- (c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit

were to be made in his case.

- (3) The following are the amounts referred to in sub-paragraph (1)—
    - (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12 of this Schedule;
    - (b) the amount of child care charges calculated as deductible under paragraph 33(1)(c) of this scheme; and
    - (c) £17.10.
  - (4) The provisions of paragraph 10 of section 1 of this scheme 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 sub-paragraph (1) of that paragraph were a reference to 30 hours.
- 19.** In this Schedule "part-time employment" means employment in which the person is engaged on average for less than 16 hours a week.

## **SCHEDULE 12**

### **Paragraph 28**

#### **Sums disregarded in the calculation of income other than earnings**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.
2. Any payment made to the applicant 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.
3. Any payment made to the applicant 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.
4. Any amount paid by way of tax on income which is to be taken into account under paragraph 28 (calculation of income other than earnings).
5. Any payment in respect of any expenses incurred or to be incurred by an applicant 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 paragraph 30(5) (notional income).
6. Any payment in respect of expenses arising out of the applicant's participation in a service user group.
7. 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.
8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.
9. Where the applicant 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 applicant's income.
10. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No 3) Regulations 1999 as in force at that date, the whole of his income.

11. Any disability living allowance or personal independence payment.
12. Any concessionary payment made to compensate for the non-payment of—
  - (a) any payment specified in paragraph 11 or 14;
  - (b) income support;
  - (c) an income-based jobseeker's allowance;
  - (d) an income-related employment and support allowance.
13. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
14. Any attendance allowance.
15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
16. (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 (payment of school expenses; grant of scholarships etc);
    - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
    - (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;
  - (b) corresponding to such an education maintenance allowance, made pursuant to—
    - (i) section 14 or section 181 of the Education Act 2002 (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; or
  - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under 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 or other payment made pursuant to any provision specified in sub-paragraph (1).

**17.** Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002.

**18.** (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

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

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

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

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any

personal injury to the applicant;

- (d) a payment under an annuity purchased—
  - (i) pursuant to any agreement or court order to make payments to the applicant; or
  - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
- (e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

- (2) Sub-paragraph (1) shall not apply to a payment which is made or due to be made by—
  - (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
  - (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

**20.** Subject to paragraph 40, the total of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;



- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

**21.** Subject to paragraph 40, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the Act
- (b) widowed parent's allowance paid pursuant to section 39A of the Act.

**22.** (1) Any income derived from capital to which the applicant is or is treated under paragraph 43 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Schedule 13.

(2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 13 but only to the extent of—

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

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

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

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

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

**24.** (1) Where the applicant is the parent of a student aged under 25 in advanced

education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23 of this Schedule, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

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

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

whichever is less.

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

**26.** Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 of this Schedule refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

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

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per

cent of the excess over £20.

- (2) In this paragraph, “board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.
- 28.** (1) Any income in kind, except where paragraph 28(11)(b) of this scheme (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.
- (2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.
- 29.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 30.** (1) any payment made to the applicant in respect of a person who is a member of his family—
- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);
- (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
- (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance);
- (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 31.** Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made—

- (a) by a local authority under—
  - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
  - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
  - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

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

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006.

**33.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

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

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

- (a) was formerly in the applicant's care, and
  - (b) is aged 18 or over, and
  - (c) continues to live with the applicant.
- 35.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
  - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
  - (b) meet any amount due by way of premiums on—
    - (i) that policy; or
    - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 36.** Any payment of income which by virtue of paragraph 38 of this scheme (income treated as capital) is to be treated as capital.
- 37.** Any payment made pursuant to the authority's scheme that replaces the Social Fund as provided for under part 8 of the SSCBA.
- 38.** Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).
- 39.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 40.** The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 18(2) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 49(2)(b) and paragraph 50(1)(d) of this scheme (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 53(2) of this scheme (treatment of student loans), paragraph 55(3) of this scheme (treatment of payments from access

funds) and paragraph 21 of this schedule shall in no case exceed £20 per week.

41. (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which subparagraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or

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

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

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

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and

- (b) the payment is made either—

- (i) to that person's parent or step-parent, or

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

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

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

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

**42.** Any housing benefit.

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

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

**45.** Any payment in consequence of a reduction of council tax under section 13A(1)(c) of the 1992 Act (reduction of liability for council tax).

**46.** (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).

- (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).

**47.** 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 of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

**48.** Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

**49.** (1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

- (2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

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

**50.** (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

- (2) In paragraph (1)—

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) The Child Support Act 1991;
- (b) The Child Support (Northern Ireland) Order 1991;



- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

- 51.** 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 to assist disabled persons to obtain or retain employment despite their disability.
- 52.** Any guardian’s allowance.
- 53.** (1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the applicant’s family.
- (2) If the applicant 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 applicant’s family.
- 54.** 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.
- 55.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 56.** (1) Any payment which is—
  - (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
    - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
    - (ii) whose service in such capacity terminated before 31st March 1973;

and

(b) equal to the amount specified in article 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).

**57.** Any council tax benefit to which the applicant is entitled for any period prior to 1<sup>st</sup> April 2013.

**58.** Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 11, where the applicant is a person who satisfies any of the conditions of subparagraph (2) of that paragraph, any amount of working tax credit up to £17.10.

**59.** Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).

**60.** (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 as defined for the purposes of Chapter 4A of Part 8 of the Jobseekers Allowance Regulations.

**61.** (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 applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant 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.

- 62.** Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.
- 63.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.
- 64.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.
- 65.** (1) Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant 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.
- 66.** Any payment of child benefit.

**SCHEDULE 13**  
**Paragraph 37**

**Capital disregards**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.
2. Any payment made to the applicant 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.
3. Any payment made to the applicant 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.
4. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding paragraph 18 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.
5. Any premises acquired for occupation by the applicant 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 applicant to obtain possession and commence occupation of the premises.
6. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant 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 applicant to complete the purchase.
7. Any premises occupied in whole or in part—
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole

of his capital.

9. Where the applicant 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 applicant's capital.
10. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
11. (1) The assets of any business owned in whole or in part by the applicant 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 applicant 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 application for a reduction under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.
- (3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.
- (4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
12. Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—
  - (a) any payment specified in paragraphs 11, 13 or 14 of Schedule 12;
  - (b) an income-related benefit under Part 7 of the Act;
  - (c) an income-based jobseeker's allowance;
  - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;

- (e) working tax credit and child tax credit;
- (f) an income-related employment and support allowance,

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

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

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations 2001; and

- (b) received by the applicant in full on or after 14th October 2001,

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

- (3) For the purposes of sub-paragraph (2), “the period of an award of a reduction under this scheme” means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and

- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—

- (i) is the person who received the relevant sum; or

- (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.

**13.** Any sum—

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or

- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

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

- 14.** Any sum—
- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 as a condition of occupying the home;
  - (b) which was so deposited and which is to be used for the purchase of another home,
- for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.
- 15.** Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to a reduction under this scheme or to increase the amount of that reduction.
- 16.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 17.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.
- 18.** (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.
- (2) But sub-paragraph (1)—
- (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
  - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
  - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
  - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.
- (3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.
- (4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).
- 19.** The value of the right to receive any income under a life interest or from a life rent.
- 20.** The value of the right to receive any income which is disregarded under

paragraph 15 of Schedule 11 or paragraph 29 of Schedule 12.

21. The surrender value of any policy of life insurance.
22. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
23. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
24. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.  
  
(2) Sub-paragraph (1) applies only where A—
  - (a) was formerly in the applicant's care, and
  - (b) is aged 18 or over, and
  - (c) continues to live with the applicant.
25. Any payment made pursuant to the authority's scheme that replaces the Social Fund as provided for under part 8 of the SSCBA.
26. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.
27. Any capital which by virtue of paragraph 29 or 53 (capital treated as income, treatment of student loans) is to be treated as income.
28. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
29. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.  
  
(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—



- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Sub-paragraph (3) does not apply if—
- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
  - (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.
- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which subparagraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

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

- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

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

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

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

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

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

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

- 32.** Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first

commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

33. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
34. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
35. The value of the right to receive an occupational or personal pension.
36. The value of any funds held under a personal pension scheme.
37. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
38. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
39. 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.
40. Any payment in consequence of a reduction of council tax under section 13A(1)(c) of the Local Government Finance Act 1992 (reduction of liability for council tax) or section 80 of the Local Government Finance Act 1992 (reduced amounts), but only for a period of 52 weeks from the date of the receipt of the payment.
41. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (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 applicant to commence occupation of those premises as his home.

- 42.** Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 12 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
- 43.** (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 receipt of the payment or repayment.
- 44.** 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 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.
- 45.** Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).
- 46.** Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.
- 47.** 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 to assist disabled persons to obtain or retain employment despite their disability.
- 48.** 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.

- 49.** (deleted)
- 50.** (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.
- 51.** 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, or under Rule 36.14 of the Ordinary Cause Rules 1993 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.
- 52.** Any payment to the applicant as holder of the Victoria Cross or George Cross.
- 53.** 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.
- 54.** (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 applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant 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.

- 55.** (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;
    - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
    - (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;
  - (b) corresponding to such an education maintenance allowance, made pursuant to—
    - (i) section 14 or section 181 of the Education Act 2002 (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; or
  - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under 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 or other payment made pursuant to any provision specified in sub-paragraph (1).

- 56.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.
- 57.** 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.
- 58.** 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 applicant;
  - (b) the applicant's partner;
  - (c) the applicant's deceased spouse or deceased civil partner; or
  - (d) the applicant's partner's deceased spouse or deceased civil partner,
- by the Japanese during the Second World War, £10,000.

**59.** (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant'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 date 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 20,whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom

a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

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

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

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
  - (i) two years after that date; or
  - (ii) On the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 20,

whichever is the latest.

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

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

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for



the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

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

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

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

- 60.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant’s partner, the applicant’s deceased spouse or deceased civil partner or the applicant’s partner’s deceased spouse or deceased civil partner—
- (a) was a slave labourer or a forced labourer;
  - (b) had suffered property loss or had suffered personal injury; or
  - (c) was a parent of a child who had died,
- during the Second World War.
- 61.** (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant 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.
- 62.** Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care).
- 63.** Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 64.** Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

## **Section 3**

### **Part 1**

#### **Service of notices of document**

- 1 (1) any notice (including notification of a decision of a relevant authority) or other document is required to be given or sent to any person as the case may be, that notice or document shall, if sent by post to that person's last known address, be treated as having been so given or sent on the day it was posted .

#### **Person treated as a person affected by a decision**

2. (1) For the purposes of this reduction scheme and subject to paragraph (2), a person is to be treated as a person affected by a relevant decision of a relevant authority where that person is—
  - (a) an applicant or their partner;
  - (b) in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act—
    - (i) a receiver appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf,
    - (ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate, or
    - (iii) an attorney with a general power or a power to receive benefit appointed by the person liable to make those payments under the Powers of Attorney Act 1971 or the Enduring Powers of Attorney Act 1985;
  - (c) a person appointed by the relevant authority under schedule 8 paragraph 6 sub paragraph 3 or schedule 8 paragraph 6 sub paragraph 5 of this scheme;
  - (d) a person from whom the relevant authority determines that an excess reduction is recoverable in accordance with this scheme.
- (2) Paragraph (1) only applies in relation to a person referred to in paragraph (1) where the rights, duties or obligations of that person are affected by a relevant decision.

#### **Revision of decisions**

- 3 (1) Subject to the provisions in this regulation, a relevant decision ("the original decision") may be revised or further revised by the relevant authority which made the decision where—
  - (a) subject to paragraph 9 sub-paragraph 3 the applicant, the applicant's partner or a person authorised under person affected makes an application for a revision within—
    - (i) one month of the date of notification of the original decision; or

- (ii) such extended time as the relevant authority may allow under paragraph 4;
  - (b) within one month of the date of notification of the original decision that authority has information which is sufficient to show that the original decision was made in ignorance of, or was based upon a mistake as to, some material fact; or
  - (c) an appeal is made under paragraph 9 of Schedule 7 to this scheme against the original decision in paragraph 9 of schedule 7.
- (2) An original decision may be revised or further revised by the relevant authority which made the decision, at any time by that authority, where that decision—
- (a) arose from an official error; or
  - (b) was made in ignorance of, or was based upon a mistake as to, some material fact and as a result of that ignorance of or mistake as to that fact, the decision was more advantageous to the person affected than it would otherwise have been but for that ignorance or mistake.
- (3) Where the relevant authority requires further evidence or information in order to consider all the issues raised by an application under paragraph (1)(a) (“the original application”), that authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be revised—
- (a) where the evidence or information so requested is provided within one month of the date of the notification or such longer period as the relevant authority may allow; or
  - (b) where such evidence or information is not provided within the period referred to in sub-paragraph (a), on the basis of the original application.
- (4) A relevant decision made in respect of a claim or an award may be revised where—
- (a) a decision in respect of that claim or that award is given by the First Tier Tribunal, Upper Tribunal, High Court and a higher court against a decision (“decision A”);
  - (b) the relevant decision was made after decision A; and
  - (c) the relevant decision would have been made differently had the relevant authority been aware of that appeal decision at the time it made the relevant decision.
- (5) Where the conditions of regulation 4 parts 7A, 7B, 7C, 7D, 7E or 7F of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 are satisfied then the Council Tax reduction may be revised at any time in accordance with these parts.
- (6) An application for a revision shall be made in writing and delivered, by whatever means, to the relevant authority or, in a case to which the Work-focused Interviews Regulations apply, either to the relevant authority or to an office of a designated authority which displays the ONE logo(3).
- (7) The relevant authority may treat an application for a supersession as an application for a revision.

- (8) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the decision had effect or where the relevant authority has evidence or information which indicates that a relevant change of circumstances will occur.

### **Late application for revision**

- 4 (1) The time limit for making an application for a revision specified in regulation 3 may be extended where the conditions specified in the following paragraphs of this regulation are satisfied.
- (2) An application for an extension of time ("the application") shall be made in writing by the person affected by a relevant decision.
- (3) The application shall -
- (a) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified;
  - (b) be made within 13 months of the date of notification of the decision which it is sought to have revised;
  - (c) be delivered, by whatever means, to the relevant authority.
- (4) The application shall not be granted unless the person affected satisfies the relevant authority that -
- (a) it is reasonable to grant the application;
  - (b) the application for revision has merit; and
  - (c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in paragraph 3.
- (5) In determining whether it is reasonable to grant the application for an extension of time, no account shall be taken of the following -
- (a) that the person affected was unaware of or misunderstood the scheme applicable to his case (including ignorance or misunderstanding of the time limits imposed by these paragraphs); or
  - (b) that the Upper Tribunal or a court has taken a different view of the law from that previously understood and applied.
- (6) In determining whether it is reasonable to grant an application, the relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified in paragraph 3 for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

- (7) An application under this regulation for an extension of time which has been refused may not be renewed.

#### **Date from when revision takes effect**

5. (1) Where, on a revision the relevant authority decides that the date from which a relevant decision (“the original decision”) took effect was erroneous, the decision shall take effect on the date the original decision would have taken effect had the error not been made.

#### **Decisions superseding earlier decisions**

6. (1) Subject to the provisions in this paragraph, the prescribed cases and circumstances in which a decision may be superseded sub-paragraph (2).

- (2) The appropriate relevant authority may make a decision upon its own initiative or on an application made for the purpose on the basis that the decision to be superseded is a decision -

- (a) in respect of which -

- (i) there has been a change of circumstances since the decision had effect; or
- (ii) it is anticipated that a change of circumstances will occur;

- (b) which is erroneous in point of law or made in ignorance of, or was based upon a mistake as to, some material fact provided that the decision -

- (i) cannot be revised on the basis of that error, ignorance or mistake

- (c) of a Valuation Tribunal, High Court—

- (i) that was made in ignorance of, or was based upon a mistake as to, some material fact; or
- (ii) that was made in accordance with paragraph 17(4)(b) of Schedule 7 to the Act, in a case where paragraph 17(5) of that Schedule to the Act applies;

- (d) which is affected by a decision of the Secretary of State that a joint-claim jobseeker’s allowance ceases to be payable or falls to be reduced under section 8 of the Social Security Fraud Act 2001.

- (e) except where sub-paragraph (g), (h) or (i) applies, where—

- (i) the applicant has been awarded entitlement to council tax reduction; and
- (ii) subsequent to the first day of the period to which that entitlement relates, the applicant or a member of his family becomes entitled to an

award of a relevant benefit within the meaning of section 8(3) of the 1998 Act or an increase in the rate of that relevant benefit.

- (f) where—
- (i) the applicant or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
    - (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act;
    - (bb) paragraph 1 of Schedule 5A to that Act; or, as the case may be,
    - (cc) paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005; or
  - (ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 or, as the case may be, paragraph 20D of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.
- (g) where—
- (i) the applicant has been awarded entitlement to council tax reduction;
  - (ii) the applicant or the applicant's partner has made a claim for employment and support allowance;
  - (iii) subsequent to the first day of the period to which entitlement to council tax reduction, 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 within the meaning of section 1(4) of the Welfare Reform Act or limited capability for work-related activity within the meaning of section 2(5) of that Act; and
  - (iv) either—
    - (aa) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
    - (bb) regulation 7 of the Employment and Support Allowance Regulations 2008(c) (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.
- (h) where—
- (i) the applicant has been awarded entitlement to council tax reduction;

- (ii) the applicant or the applicant's partner has had an award of benefit converted to an employment and support allowance in accordance with regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; and
  - (iii) subsequent to the first day of the period to which that entitlement to council tax reduction relates, the Secretary of State makes a decision to supersede the award of employment and support allowance to award a different component;
- (l) where the applicant has been awarded entitlement to a council tax reduction and subsequent to the first day of the period to which that entitlement relates—
  - (i) a conversion decision of the kind set out in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect in respect of the claimant or the claimant's partner; or
  - (ii) the claimant or the claimant's partner is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.
- (3) The reference to a change of circumstances in paragraph (2)(a) shall include changes of circumstances specified in schedule 8 paragraph 9 sub-paragraph 3 of this scheme (changes of circumstances which do not need to be notified).
- (4) A decision which may be revised under paragraph 3 may not be superseded under this sub paragraph except where -
  - (a) circumstances arise in which the appropriate relevant authority may revise that decision under regulation 3; and
  - (b) further circumstances arise in relation to that decision which are not specified in paragraph 3 but are specified in sub-paragraph (2) or (5).
- (5) Where the appropriate relevant authority requires further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (2) ("the original application"), the authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be superseded -

- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the appropriate relevant authority may allow; or
  - (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.
- (6) The appropriate relevant authority may treat an application for a revision or a notification of a change of circumstances as an application for a supersession.
- (7) An application under this paragraph shall be made in writing and delivered, by whatever means, to the relevant authority.

**Date from which a decision superseding an earlier decision takes effect**

- 7 (1) A decision made by virtue of this reduction scheme shall take effect on a date other than the date on which it is made or the date on which the application was made in the cases or circumstances prescribed in sub-paragraphs (2) to (7).
- (2) Subject to paragraphs (3) and (6), where the superseding decision is made on the grounds that there has been, or it is anticipated that there will be, a change of circumstances, the superseding decision shall take effect on the date on which the change of circumstances is to take effect in accordance with -
- (a) schedule 8 paragraph 4
  - (b) paragraphs 46 and 47 of Section 1
  - (c) paragraph 72 of Section 2
- (3) For the purposes of determining the date on which a superseding decision is to take effect in accordance with paragraph (2), in a case where—
- (a) the change of circumstances is a change of circumstances that is required by this scheme to be notified; and
  - (b) that change of circumstances is notified more than one month after it occurs, or such longer period as may be allowed under paragraph 8; and
  - (c) the superseding decision is advantageous to the claimant,
- the date of notification of the change of circumstances shall be treated as the date on which the change of circumstances occurred.
- (4) Where the superseding decision is advantageous to the applicant and is made on the ground that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact, the superseding decision shall take effect from the first day of the benefit week in which -
- (a) except where sub-paragraph (b) applies, the appropriate relevant authority first has information which is sufficient to show that the superseded



decision was made in ignorance of, or was based upon a mistake as to, some material fact;

- (b) where the superseding decision was made pursuant to an application, that application was received by the appropriate relevant authority.
- (5) Where a decision is made superseding a decision of a Valuation Tribunal, High Court or other higher court (“the appeal decision”) which–
- (a) was made in ignorance of, or was based upon a mistake as to, some material fact; and
  - (b) was more advantageous to the claimant than it would otherwise have been but for that ignorance or mistake, that superseding decision shall take effect on the date on which the appeal decision took or was to take effect.
- (6) A superseding decision made as a consequence of a determination which is a relevant determination for the purposes of paragraph 18 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (restrictions on entitlement to benefit in certain cases of error) shall take effect from the date of the relevant determination.
- (7) Where the decision is superseded in accordance with paragraph 6(2)(a)(i) of this scheme and the relevant circumstances are that there has been a change in the rules in relation to this council tax reduction scheme, the superseding decision shall take effect from the date on which that change in rule had effect.
- (8) Where the superseding decision is made in a case to which regulation 6(2)(c)(ii) of this part applies, the superseding decision shall take effect from the date on which the decision of the valuation tribunal or higher court would have taken effect had it been decided in accordance with the determination of the Upper Tribunal, the Commissioner or the court in the appeal referred to in paragraph 17(1)(b) of Schedule 7 to the Act.
- (9) Subject to paragraph (17), where the reduction is superseded in accordance with 6(2)(i) the superseding decision shall take effect from the date on which entitlement arises to the relevant benefit referred to in 6(2)(i)(ii) or to an increase in the rate of that relevant benefit.
- (10) Where the reduction is superseded in accordance with 6(2)(j), the superseding decision shall take effect from the day on which a lump sum, or a payment on account of a lump sum, is paid or repaid if that day is the first day of the reduction week but, if it is not, from the next following such day.
- (11) Where the reduction is superseded in accordance with regulation 6(2)(o), or (p) the decision shall take effect from–
- (a) the first day of entitlement to an amount in consequence of the decision of the Secretary of State referred to in regulation 7(2)(o)(iii) or (p)(iii); or
  - (b) the first day that there would have been such entitlement had the claimant or the claimant’s partner been entitled to an employment and support

allowance by virtue of section 1 of the Welfare Reform Act, if that day is the first day of the benefit week but, if it is not, from the next following such day.

- (12) Where a reduction is superseded in accordance with 6(2)(q) the decision shall take effect
- (a) where the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect on or after 1st April in any year but before 16th April of that year—
    - (i) from 1st April for a council tax benefit award;
  - (b) in any other case, from the day the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect.
- (13) Where the reduction is superseded in accordance with regulation 7(2)(a)(i) and the relevant circumstances are that the claimant has a non-dependant who has become entitled to main phase employment and support allowance, the superseding decision shall take effect from the date of the decision awarding main phase employment and support allowance to the non-dependant.
- (14) Where the reduction is superseded under 6(2)(i) on the basis that the claimant or the claimant's partner is entitled to main phase employment and support allowance, the decision shall take effect from the day on which entitlement arose if it is the first day of a reduction week or, if it is not, from the first day of the next following reduction week.
- (15) For the purposes of paragraphs (13) and (14)—
- (a) "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 2007; and
  - (b) "non-dependant" has the meaning prescribed in regulation 3 of the Housing Benefit Regulations.

### **Effective date for late notification of change of circumstances**

- 8 (1) For the purposes of making a decision under this reduction scheme a longer period of time may be allowed for the notification of a change of circumstances in so far as it affects the effective date of the change where the conditions specified in the following provisions of this regulation are satisfied.
- (2) An application for the purposes of sub-paragraph (1) shall—

- (a) include particulars of the change of circumstances and the reasons for the failure to notify the change of circumstances on an earlier date; and
  - (b) be made within 13 months of the date on which the change occurred.
- (3) An application for the purposes of sub-paragraph (1) shall not be granted unless the appropriate relevant authority is satisfied that—
- (a) it is reasonable to grant the application;
  - (b) the change of circumstances notified by the applicant is relevant to the decision which is to be superseded; and
  - (c) special circumstances are relevant and as a result of those special circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring.
- (4) In determining whether it is reasonable to grant the application, the appropriate relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the date one month after the change of circumstances occurred and the date the application for a superseding decision is made, the more compelling should be the special circumstances on which the application is based.
- (5) In determining whether it is reasonable to grant an application, no account shall be taken of the following—
- (a) that the applicant was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by this reduction scheme); or
  - (b) that a court has taken a different view of the law from that previously understood and applied.
- (6) An application under this which has been refused may not be renewed.

### **Correction of accidental errors**

- 9** (1) Accidental errors in a relevant reduction, or a revised reduction, or the record of such a reduction, may be corrected by the relevant authority at any time.
- (2) A correction made to a relevant reduction, or a revised reduction, or the record of such a reduction, shall be deemed to be part of the decision, or of that record, and the relevant authority shall give a written notice of the correction as soon as practicable to the applicant.
- (3) In calculating the time within which an application can be made under paragraph 3(1)(a) for a relevant decision to be revised there shall be disregarded any day falling before the day on which notice was given of a correction of the decision or to the revision or record thereof under this sub paragraph(2).

## **Cases where a relevant authority may suspend**

- 10.** (1) A relevant authority may suspend, in whole or in part—
- (a) any reduction (by way of council tax reduction) in the amount that a person is or will become liable to pay in respect of council tax, in the circumstances prescribed in paragraph (2).
- (2) The prescribed circumstances are where—
- (a) it appears to the relevant authority that an issue arises whether—
    - (i) the conditions for entitlement to council tax reduction are or were fulfilled; or
    - (ii) a decision as to an award of such a reduction should be revised under paragraph 3 (revision of decisions) or paragraph 6 (decisions superseding earlier decisions) of this part;
  - (b) an appeal is pending against—
    - (i) a decision of a valuation tribunal, a high court or a court; or
    - (ii) a decision given by a court in a different case, and it appears to the relevant authority that if the appeal were to be determined in a particular way an issue would arise whether the award of council tax reduction in the case itself ought to be revised or superseded; or
  - (c) an issue arises whether an excess payment of council tax reduction in accordance with this scheme has occurred.

## **Making or restoring of payments or reductions suspended**

- 11.** (1) Subject to sub-paragraph (2), the prescribed circumstances for the purposes of this reduction scheme (the subsequent making, or restoring, of any or all of the payments or reductions so suspended) are—
- (a) in a case to which paragraph 10(2)(a) applies, where the relevant authority is satisfied that the reduction so suspended is properly payable and no outstanding issues remain to be resolved;
  - (b) in a case to which paragraph 10(2)(b) applies, an appeal is no longer pending and the reduction suspended remains payable following the determination of that appeal.
- (2) Where any of the circumstances in paragraph (1) is satisfied, the relevant authority shall, so far as practicable, make the payment, or as the case may be, restore the reduction within 14 days of the decision to make or restore that payment or reduction.

## **Suspension for failure to furnish information etc.**

12. (1) The relevant authority may suspend in whole or in part—
- (a) any payment of council tax reduction;
  - (b) any reduction (by way of council tax reduction) in the amount that a person is or will become liable to pay in respect of council tax,
- in relation to persons who fail to comply with the information requirements as defined in paragraph 7 of schedule 8 (information and evidence).
- (2) For the purposes of this sub-paragraph the prescribed persons are—
- (a) a person in respect of whom a reduction has been suspended under paragraph 10 (cases where a relevant authority may suspend);
  - (b) a person who has made an application for a reduction of the relevant authority to be revised or superseded;
  - (c) a person in respect of whom a question has arisen in connection with his award of reduction and who fails to comply with the requirement under paragraph 7 of schedule 8 (information and evidence) to furnish information or evidence needed for a determination whether a decision on an award should be revised under paragraph 3 or superseded under paragraph 6 of this part
- (3) The relevant authority shall notify any person to whom sub-paragraph (2) refers of the requirements.
- (4) A person to whom sub-paragraph (2) refers must—
- (a) furnish the information or evidence needed within a period of—
    - (i) one month beginning with the date on which the notification under sub-paragraph (3) was sent to him; or
    - (ii) such longer period as the relevant authority considers necessary in order to enable him to comply with the requirement; or
  - (b) satisfy the relevant authority within the period provided for in sub-paragraph (4)(a) that—
    - (i) the information or evidence so required does not exist; or
    - (ii) it is not possible for him to obtain the information or evidence so required.
- (5) Where a person satisfies the requirements in sub-paragraph (4), the relevant authority shall, so far as practicable, make, or as the case may be restore, the payment within 14 days of the decision to make or restore that payment.

## **Termination in cases of a failure to furnish information**

- 13.** (1) An applicant in respect of whom payment of a reduction has been suspended—
- (a) under paragraph 10 (cases where a relevant authority may suspend) and who subsequently fails to comply with an information requirement; or
  - (b) under paragraph 12 (suspension for failure to furnish information etc) for failing to comply with such a requirement,
- shall cease to be entitled to the benefit from the date on which the payments or reduction were so suspended, or such earlier date on which entitlement to reduction ceases.
- (2) Sub-paragraph (1) does not apply—
- (a) subject to sub-paragraph (b), before the end of the period under paragraph 12(4) of this part for the provision of information
  - (b) where payment of a reduction has been suspended in part under paragraph 10 or paragraph 12.

## **Part 2**

### **Meaning of excess reduction**

- 14** In this Part "excess reduction" means any amount which has been allowed by way of council tax reduction and to which there was no entitlement under this scheme (whether on the initial decision or as subsequently revised or superseded or further revised or superseded) and includes any excess which arises by reason of—
- (a) a reduction in the amount a person is liable to pay in respect of council tax in consequence of—
    - (i) regulations made under section 13(a) of the 1992 Act (reduction in the amount of a person's council tax); or
    - (ii) any discount to which that tax is subject by virtue of section 11 or 79 of that Act;
  - (b) a substitution under sections 31 of the 1992 Act (substituted amounts) of a lesser amount for an amount of council tax previously set by the relevant authority under section 30 of that Act (amount set for council tax).

### **Recoverable excess reduction**

- 15** (1) Any excess reduction, except reduction to which sub-paragraph (2) applies, shall be recoverable.

- (2) Subject to sub-paragraphs (4) and (5) and excepting any excess reduction arising in consequence of a reduction in tax or substitution to which paragraph 14, this paragraph applies to excess reduction allowed in consequence of an official error, where the applicant or a person acting on his behalf or any other person to whom the excess reduction is allowed could not, at the time the reduction was allowed or upon the receipt of any notice relating to the allowance of that reduction, reasonably have been expected to realise that it was excess reduction.
- (3) In sub-paragraph (2), "excess reduction allowed in consequence of an official error" means an over-allowance 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) the Commissioners for Her Majesty's Revenue and Customs, acting as such; or
  - (d) a person providing services to the Department or to the Commissioners referred to in (c), where the applicant, 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) sub-paragraph (2) shall not apply with respect to excess reduction to which paragraph 14 refers.
- (5) Where in consequence of an official error a person has been awarded excess benefit, upon the award being revised or superseded any excess benefit which remains credited to him by the relevant authority in respect of a period after the date of the revision or supersession, shall be recoverable.

#### **Authority by which recovery may be made**

- 16** The relevant authority which allowed the recoverable excess reduction may recover it.

#### **Person from whom recovery may be sought**

- 17** Recoverable excess reduction shall be due from the applicant or the person to whom the excess reduction was allowed.

#### **Methods of recovery**

- 18** (1) Without prejudice to any other method of recovery a relevant authority may recover any recoverable excess reduction by any of the methods specified in sub-paragraph (2) and (3) or any combination of those methods.

- (2) Excess benefit may be recovered—
- (a) by payment by or on behalf of the applicant or the person to whom the excess reduction was allowed; or
  - (b) by an addition being made by the relevant authority to the amount payable in respect of the council tax concerned. It may be recovered in accordance with legislation governing the recovery of council tax.

### **Further provision as to recovery of excess reduction**

- 19** In addition to the methods for recovery of excess reduction which are specified in this scheme, any sum or part of a sum which is due from the person concerned and which is not paid within 21 days of his being notified of the amount that is due, shall be recoverable in a court of competent jurisdiction by the authority to which the excess reduction is due.

### **Diminution of capital**

- 20** (1) Where in the case of recoverable excess reduction, in consequence of a misrepresentation or failure to disclose a material fact (in either case whether fraudulent or otherwise) as to an applicant's capital, or an error, other than one to which paragraph 15 sub-paragraph 2 refers, as to the amount of an applicant's capital, the excess reduction was in respect of a period ("the excess reduction period") of more than 13 reduction weeks, the relevant authority shall, for the purpose only of calculating the amount of excess—
- (a) at the end of the first 13 reduction weeks of the excess reduction period, treat the amount of the capital as having been reduced by the amount of excess council tax reduction allowed during those 13 weeks;
  - (b) at the end of each subsequent period of 13 reduction weeks, if any, of the excess reduction period, treat the amount of that capital as having been further reduced by the amount of excess council tax reduction allowed during the immediately preceding 13 reduction weeks.
- (2) Capital shall not be treated as reduced over any period other than 13 reduction weeks or in any circumstances other than those, for which sub-paragraph (1) provides.

### **Sums to be deducted in calculated recoverable excess reduction**

- 21** (1) In calculating the amount of recoverable excess reduction, the relevant authority shall deduct any amount of council tax reduction which should have been determined to be payable to the person from whom the excess reduction is recoverable or their partner in respect of the whole or part of the overpayment period—
- (a) on the basis of the claim as presented to the authority;



- (b) on the basis of the claim as it would have appeared had any misrepresentation or non-disclosure been remedied before the decision; or
  - (c) on the basis of the claim as it would have appeared if any change of circumstances had been notified at the time that change occurred.
- (2) In calculating the amount of recoverable excess reduction, the relevant authority may deduct so much of any payment of council tax in respect of the excess reduction period which exceeds the amount, if any, which the claimant was liable to pay for that period under the original erroneous decision.