

## SCHEDULE 5

Regulation 40

Sums to be disregarded in the calculation of income other than earnings

1. Any amount paid by way of tax on income which is to be taken into account under regulation 40 (calculation of income other than earnings).

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

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

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 42(9) (notional income).

3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

4. Where a claimant is on income support or an income-based jobseeker's allowance the whole of his income.

5. Where the claimant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the claimant's income.

6. Any disability living allowance.

7. Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 6 or 9;
- (b) income support;
- (c) an income-based jobseeker's allowance.

8. Any mobility supplement under article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983(1) (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(2) or any payment intended to compensate for the non-payment of such a supplement.

9. Any attendance allowance.

10. Any payment to the claimant as holder of the Victoria Cross or of the George Cross or any analogous payment.

11.—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996(3) (payment of school expenses; grant of scholarships etc.);
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980(4) (power to assist persons to take advantage of educational facilities);
  - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992(5) (provision of financial assistance to students); or
- (b) corresponding to such an education maintenance allowance, made pursuant to—

(1) S.I. 1983/883; as amended by S.I. 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286 and 2001/409.

(2) S.I. 1983/686; amended by S.I. 1983/1164 and 1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420.

(3) 1996 c. 56; section 518 was substituted by the School Standards and Framework Act 1998 (c. 31), section 129.

(4) 1980 c. 44.

(5) 1992 c. 37.

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- (i) section 14 or section 181 of the Education Act 2002<sup>(6)</sup> (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
- (ii) regulations made under section 181 of that Act.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
  - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
  - (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).

**12.** Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002<sup>(7)</sup>.

**13.—**(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>(8)</sup> except—

- (a) a payment made as a substitute for income support, a jobseeker’s allowance, incapacity benefit or severe disablement allowance;
- (b) a payment of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (c) a payment intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant 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; or
- (d) for the purpose only of assessing entitlement to housing benefit in respect of a dwelling other than the one which the claimant normally occupies as his home, a payment made to a person to whom regulation 7(5)(b) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) applies to the extent that the payment is made in respect of the cost of living away from home.

(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 claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

**14.—**(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 sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;

<sup>(6)</sup> 2002 c. 32; section 14 was amended by the Education Act 2005 (c. 18), section 98 and Schedule 14, paragraph 23.

<sup>(7)</sup> S.I. 2002/2086.

<sup>(8)</sup> 1990 c. 35.

- (d) a payment under an annuity purchased—
    - (i) pursuant to any agreement or court order to make payments to the claimant; or
    - (ii) from funds derived from a payment made, in consequence of any personal injury to the claimant; or
  - (e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.
- (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 claimant, or a former partner of any member of the claimant's family; or
  - (b) the parent of a child or young person where that child or young person is a member of the claimant's family.
- 15.** Subject to paragraph 34, £10 of any of the following, namely—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 8 or 9);
  - (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 the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 1983<sup>(9)</sup> insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865<sup>(10)</sup> or the Pensions and Yeomanry Pay Act 1884<sup>(11)</sup>, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977<sup>(12)</sup> and 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;
  - (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 sub-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.
- 16.** Subject to paragraph 34, £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<sup>(13)</sup>.

**17.—**(1) Any income derived from capital to which the claimant is or is treated under regulation 51 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 6.

(2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 6 but only to the extent of—

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<sup>(9)</sup> S.I. 1983/883

<sup>(10)</sup> 1865 c. 73.

<sup>(11)</sup> 47 & 48 Vict c. 55.

<sup>(12)</sup> 1977 c. 5.

<sup>(13)</sup> Section 39A was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 (c. 30).

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- (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 claimant 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 regulation 2(1) shall apply 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”.

**18.**—(1) Where a claimant 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 the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
- (c) 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;
- (d) 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; and
- (e) 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,

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

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988<sup>(14)</sup> (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.

**19.** Where the claimant 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<sup>(15)</sup>, that student’s award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980<sup>(16)</sup>, 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.

<sup>(14)</sup> 1988 c. 1; subsection (1A) was inserted by the Finance Act 1994(c. 9), section 81(3).

<sup>(15)</sup> 1998 c. 30.

<sup>(16)</sup> 1980 c. 44.

**20.**—(1) Where the claimant 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 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 claimant makes payments by way of a contribution towards the student’s maintenance, other than a parental contribution falling within paragraph 19, 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 claimant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

**21.** Any payment made to the claimant by a child or young person or a non-dependant.

**22.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 42 refers and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of 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; and
- (b) a further £10.55, where the aggregate of any such payments is inclusive of an amount for heating.

**23.**—(1) Any income in kind, except where regulation 40(10)(b) (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 claimant which is used by the third party to provide benefits in kind to the claimant.

**24.** 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.

**25.**—(1) Any payment made to the claimant 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<sup>(17)</sup> or with a scheme approved by the Scottish Ministers under section 51 of the Adoption (Scotland) Act 1978<sup>(18)</sup> (schemes for payments of allowances to adopters);
- (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<sup>(19)</sup> (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence

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<sup>(17)</sup> 2002 c. 38.

<sup>(18)</sup> 1978 c. 28.

<sup>(19)</sup> 1989 c. 41.

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order) or, as the case may be, section 50 of the Children Act 1975<sup>(20)</sup> (payment 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<sup>(21)</sup> (special guardianship support services);

to the extent specified in sub-paragraph (3).

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

(3) In the case of a child or young person, so much of the weekly amount of the payment as exceeds the amount included under Schedule 3 in the calculation of the claimant's applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any.

**26.** Any payment made by a local authority to the claimant with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 or, as the case may be, section 26 of the Children (Scotland) Act 1995<sup>(22)</sup> or by a voluntary organisation under section 59(1)(a) of the Children Act 1989 or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985<sup>(23)</sup> (provision of accommodation and maintenance for children by local authorities and voluntary organisations).

**27.** Any payment made to the claimant or his partner for a person ("the person concerned"), who is not normally a member of the claimant'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<sup>(24)</sup>; or
- (e) a primary care trust established under section 16A of the National Health Service Act 1977<sup>(25)</sup>.

**28.** Any payment made by a local authority in accordance with section 17, 23C or 24 of the Children Act 1989<sup>(26)</sup> or, as the case may be, section 12 of the Social Work (Scotland) Act 1968<sup>(27)</sup> or section 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

**29.—(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 claimant occupies as his home; or

<sup>(20)</sup> 1975 c. 72.

<sup>(21)</sup> 1989 c. 41; section 14F was inserted by the Adoption and Children Act 2002.

<sup>(22)</sup> 1995 c. 36.

<sup>(23)</sup> S.I. 1985/1799.

<sup>(24)</sup> 1948 c. 29; subsection (3A) was inserted by the National Health Service and Community Care Act 1990 (c. 19).

<sup>(25)</sup> 1977 c. 49; section 16A was inserted by section 2 of the Health Act 1999(c. 8).

<sup>(26)</sup> 1989 c. 41; section 23C was inserted by the Children (Leaving Care) Act 2000 (c. 35), section 2(4).

<sup>(27)</sup> 1968 c. 49.

- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974<sup>(28)</sup> 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<sup>(29)</sup>.
- (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 claimant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 30.** Any payment of income which by virtue of regulation 46 (income treated as capital) is to be treated as capital.
- 31.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).
- 32.** Any payment under Part 10 of the Act (Christmas bonus for pensioners).
- 33.** 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.
- 34.** The total of a claimant'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 regulation 25(2) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 60(2)(b) and regulation 61(1)(d) (calculation of covenant income where a contribution assessed), covenant income where no grant income or no contribution is assessed regulation 64(2) (treatment of student loans), regulation 65(3) (treatment of payments from access funds) and paragraphs 15 and 16 shall in no case exceed £20 per week.
- 35.—**(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust ("the Trusts"), the Fund, the Eileen Trust or the Independent Living Funds.
  - (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 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 claimant'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 claimant'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

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<sup>(28)</sup> 1974 c. 39.

<sup>(29)</sup> 1964 c. 53; Part 3 was substituted by the Consumer Credit Act 1974 (c. 39), Schedule 4, paragraph 22.

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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 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 claimant'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 claimant'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 any of the Trusts to which sub-paragraph (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 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.

(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, the Skipton Fund or the London Bombing Relief Charitable Fund.

**36.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**37.** Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983**(30)**.

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**(30)** [S.I. 1983/1399](#).



**38.** Any resettlement benefit which is paid to the claimant by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987(**31**).

**39.** 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.

**40.** Any community charge benefit.

**41.** Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992(**32**) (reduction of liability for council tax).

**42.**—(1) Where the claimant 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.

(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.

**43.** Any special war widows payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865(**33**);
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977;
- (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(**34**);
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(**35**);
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980;

and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.

**44.**—(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(**36**) (travelling expenses and health service supplies);

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(31) S.I. 1987/1683.

(32) 1992 c. 14.

(33) 1865 c. 73.

(34) 1917 c. 51, Queen’s Regulations for the Royal Air Force are available from HMSO.

(35) 1980 c. 9.

(36) S.I. 2003/2382, as amended by S.I. 2004/663, S.I. 2004/936 and S.I. 2005/26 and 578.

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- (b) as respects Wales, under regulations 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988<sup>(37)</sup> (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003<sup>(38)</sup> (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, Scottish Ministers or the National Assembly for Wales, which is analogous to a payment or repayment mentioned in sub-paragraph (1).

**45.** Any payment made under regulation 6, 8, 12 or 14(2) of the Welfare Food Regulations 1996<sup>(39)</sup> (payments made in place of milk tokens or the supply of vitamins).

**46.** Any payment made by either the Secretary of State for the Home Department or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

**47.—**(1) Where a claimant'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—

- (a) the claimant's former partner, or the claimant's partner's former partner; or
- (b) the parent of a child or young person where that child or young person is a member of the claimant's family except where that parent is the claimant or the claimant's 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 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 purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in head (a) or (b) of that sub-paragraph.

**48.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

**49.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944<sup>(40)</sup> to assist disabled persons to obtain or retain employment despite their disability.

**50.** Any guardian's allowance.

**51.** Any council tax benefit.

**52.—**(1) Where the claimant is in receipt of any benefit under Parts 2, 3 or 5 of the Act or pension under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983<sup>(41)</sup>, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act or the rate of that pension under that Order where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(2) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker's allowance under regulation 10(4) of the Jobseeker's Allowance (Transitional Provisions)

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<sup>(37)</sup> S.I. 1988/551 as amended by S.I. 1989/394, 1991/557, 1996/410, 1998/417, and 2003/975.

<sup>(38)</sup> S.I. 2003/376.

<sup>(39)</sup> S.I. 1996/1434.

<sup>(40)</sup> 1944 c. 10.

<sup>(41)</sup> S.I. 1983/883; the relevant amending Instruments are S.I. 1993/598, 1994/1906 and 2002/792.

Regulations 1996(42) shall be treated as an increase of a benefit under the Act arising under Part 4 of the Act.

**53.** Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(43) (pensions to widows, widowers or surviving civil partners).

**54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(44) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

**55.—(1)** Any payment which is—

(a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows, widowers or surviving civil partners).

(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).

**56.** Except in a case which falls under sub-paragraph (1) of paragraph 17 of Schedule 4, where the claimant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £14.50.

**57.** Any payment made under the Community Care (Direct Payments) Act 1996(45) or under section 12B of the Social Work (Scotland) Act 1968(46) or under regulations made under section 57 of the Health and Social Care Act 2001(47) (direct payments).

**58.—(1)** Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—

(a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;

(b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations(48).

**59.—(1)** Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

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(42) [S.I. 1996/2567](#).

(43) [S.I. 1983/883](#); the relevant amending instruments are [S.I. 1994/1906](#) and [2005/1471](#).

(44) [S.I. 1983/686](#); the relevant amending Instruments are [S.I. 1994/2021](#) and [2002/672](#).

(45) [1996 c. 30](#).

(46) [1968 c. 48](#); section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

(47) [2001 c. 15](#).

(48) Chapter 4A was inserted by [S.I. 1998/1174](#).

**Status:** This is the original version (as it was originally made).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the claimant or where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2)—

“food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made;

“rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions).

**60.** Where the amount of subsistence allowance paid to a person in a benefit week exceeds the amount of income-based jobseeker’s allowance that person would have received in that benefit week had it been payable to him, less 50p, that excess amount.

**61.** In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise.

**62.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001<sup>(49)</sup>.

**63.—**(1) Any payment made by a local authority or by the National Assembly for Wales, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.

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

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<sup>(49)</sup> S.I. 2001/1167.