

SCHEDULE 2

Regulations 10(2) and 13(2)

Child Care Charges to be Deducted in the Calculation of Earnings

1. This Schedule applies where a claimant is incurring relevant child care charges and is—
  - (a) a lone parent;
  - (b) a member of a couple both of whom are engaged in employment; or
  - (c) a member of a couple where one member is engaged in employment and the other member is incapacitated.

2. In this Schedule—

“relevant child care charges” means the charges paid by the claimant for care provided for any child of the claimant’s family who is under the age of 11 years, other than charges paid in respect of the child’s compulsory education or charges paid by a claimant to a partner or by a partner to a claimant in respect of any child for whom either or any of them is responsible in accordance with section 139 of the Contributions and Benefits Act, where the care is provided—

- (a) by a person registered under Article 118 of the Children (Northern Ireland) Order 1995; or
- (b) in a school or establishment which is exempted from registration under Article 121(1) to (3) of that Order,

and shall be calculated on a weekly basis in accordance with paragraphs 4 to 7;

“school term-time” means the school term-time applicable to the child for whom care is provided.

3. The age of a child referred to in paragraph 2 shall be determined by reference to the age of the child at the date on which the benefit week begins.

4. Subject to paragraphs 5 to 7, relevant child care charges shall be calculated in accordance with the formula—

$$\frac{X + Y}{52}$$

where—

X is the average weekly charge paid for child care in the most recent 4 complete weeks which fall in school term-time in respect of the child or children concerned, multiplied by 39; and

Y is the average weekly charge paid for child care in the most recent 2 complete weeks which fall out of school term-time in respect of that child or those children, multiplied by 13.

5. Subject to paragraph 6, where child care charges are being incurred in respect of a child who does not yet attend school, the relevant child care charges shall mean the average weekly charge paid for care provided in respect of that child in the most recent 4 complete weeks.

6. Where in any case child care charges are paid monthly, the average weekly charge for the purposes of paragraph 4 shall be calculated—

- (a) where the charges are for a fixed monthly amount, by multiplying that amount by 12 and dividing the product by 52;
- (b) where the charges are for variable monthly amounts, by aggregating the charges for the previous 12 months and dividing the total by 52.

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7. In a case where there is no information or insufficient information for calculating the average weekly charge paid for child care in accordance with paragraphs 4 to 6, the average weekly charge shall be estimated by reference to information provided by the child minder or person providing the care or, if such information is not available, by reference to information provided by the claimant.

8. For the purposes of paragraph 1(c), the other member of a couple is incapacitated where—
- (a) housing benefit is payable under Part VII of the Contributions and Benefits Act to the other member or his partner and his applicable amount includes—
    - (i) a disability premium, or
    - (ii) a higher pensioner premium by virtue of the satisfaction of paragraph 10(2)(b) of Schedule 2 to the Housing Benefit (General) Regulations (Northern Ireland) 1987(1), on account of the other member's incapacity or regulation 21A(1)(c) of those Regulations (treatment of child care charges) applies in that person's case;
  - (b) there is payable in respect of him one or more of the following—
    - (i) long-term incapacity benefit under section 30A, 40 or 41 of the Contributions and Benefits Act(2),
    - (ii) attendance allowance under section 64 of that Act,
    - (iii) severe disablement allowance under section 68 of that Act(3),
    - (iv) disability living allowance under section 71 of that Act,
    - (v) an increase of disablement pension under section 104 of that Act,
    - (vi) a pension increase under a war pension scheme or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (v);
  - (c) a pension or allowance to which sub-paragraph (b)(ii), (iv), (v) or (vi) refers, was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient (other than a person who is serving a sentence imposed by a court in a prison, young offenders centre or a training school) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(4);
  - (d) sub-paragraph (b) or (c) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding statutory provision having effect in Great Britain; or
  - (e) he has an invalid carriage or other vehicle provided to him by the Department under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(5) or provided by the Secretary of State under section 5(2)(a) of, and Schedule 2 to, the National Health Service Act 1977(6) or under section 46 of the National Health Service (Scotland) Act 1978(7).

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(1) S.R. 1987 No. 461; regulation 21A was inserted by regulation 2(3) of S.R. 1994 No. 274 and amended by regulation 6 of S.R. 1995 No. 89 and regulation 4 of S.R. 1995 No. 129

(2) Section 30A was inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I.1994/1898 (N.I. 12)); sections 40 and 41 were substituted by paragraphs 8 and 9, respectively, of Schedule 1 to that Order and section 41 was amended by paragraph 18(4) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(3) Section 68 was amended by Article 11 of, and paragraph 18 of Schedule 1 to, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994, regulation 3(2) of S.R. 1984 No. 317 and regulation 2(2) of S.R. 1994 No. 370

(4) S.R. 1975 No. 109

(5) S.I. 1972/1265 (N.I. 14)

(6) 1977 c. 49

(7) 1978 c. 29

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