
STATUTORY INSTRUMENTS

1992 No. 1814

SOCIAL SECURITY

The Council Tax Benefit (General) Regulations 1992

Made - - - - *20th July 1992*

Coming into force

*(a) for the purposes of
regulations 1, 2, 61 to 65, 92
and 93*

17th August 1992

(b) for all other purposes

1st April 1993

Whereas a draft of this instrument was laid before Parliament in accordance with the Local Government Finance Act 1992, Schedule 9, paragraphs 11 and 26 and approved by resolution of each House of Parliament—

Now, therefore, the Secretary of State for Social Security in exercise of powers conferred by sections 123(1)(e), 131(1) to (3), (5), (7) and (10), 132(1), (3), (4), (7) and (8), 133(3) and (4), 134(1) 135(1), (2) and (6), 136, 137(1), (2)(c) to (f), (1) and (m), and 175(3), (4) and (6) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ sections 1(1), 6(1)(a) to (e), (f) to (m), (o) to (p) and (u), 63, 76(1) to (3), (6) and (8), 77(1), 128(1) and (2), 138(1) and (9), 139(6)(b) and 189(4) to (6) of the Social Security Administration Act 1992⁽²⁾ as they have effect with respect to council tax benefit by virtue of section 103 and Schedule 9 to the Local Government Finance Act 1992⁽³⁾ and of all other powers enabling him in that behalf by this instrument, which contains only provisions consequential on the Local Government Finance Act 1992 and is made before the end of the period of 6 months from the coming into force of that enactment and after consultation with organisations appearing to him to be representative of the authorities concerned⁽⁴⁾, hereby makes the following Regulations—

(1) 1992 c. 4.

(2) 1992 c. 5.

(3) 1992 c. 14.

(4) See section 176(1) of the Social Security Administration Act 1992, which was amended by the Local Government Finance Act 1992, Schedule 9 paragraph 23.

PART I

General

Citation and commencement

1. These Regulations may be cited as the Council Tax Benefit (General) Regulations 1992 and shall come into force—

- (a) for the purposes of regulations 1, 2, 61 to 65, 92 and 93 on 17th August 1992;
- (b) for all other purposes on 1st April 1993.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

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

“the Administration Act 1992” means the Social Security Administration Act 1992;

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

“alternative maximum council tax benefit” means the amount determined in accordance with regulation 54 and Schedule 2;

“appropriate authority” means—

- (a) in England and Wales, the billing authority to which Part I of the 1992 Act refers,
- (b) in Scotland, the levying authority to which Part II of the 1992 Act refers;

“appropriate social security office” means an office of the Department of Social Security which is normally open to the public for the receipt of claims for income support and includes an office of the Department of Employment which is normally open to the public for the receipt of claims for unemployment benefit;

“assessment period” means such period as is prescribed in regulations 14 to 16 over which income falls to be calculated;

“attendance allowance” means—

- (a) an attendance allowance under Part III of the Contributions and Benefits Act 1992;
- (b) an increase of disablement pension under section 104 of that Act;
- (c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Schedule 8 to that Act (constant attendance allowance);
- (d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Schedule 8 to that Act;
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983⁽⁵⁾ or any analogous payment;
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“benefit period” has the meaning prescribed in regulation 57;

“benefit week” means a period of 7 consecutive days commencing on a Monday and ending on a Sunday;

(5) S.I.1983/686; the relevant amending instruments are S.I. 1983/1164 and 1984/1675.

“boarder” means a person who pays a charge for his accommodation and at least some cooked or prepared meals which are both prepared and consumed in that accommodation or associated premises;

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

“claim” means a claim for council tax benefit;

“claimant” means a person claiming council tax benefit;

“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 the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“community charge benefit” means the benefit to which section 123(1)(e) of the Contributions and Benefits Act 1992 refers;

“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 under the Contributions and Benefits Act 1992 are charged;

“council tax benefit” means council tax benefit under Part VII of the Contributions and Benefits Act 1992(6);

“designated office” means the office designated by the appropriate authority, by way of notice upon a form approved by them, for the purpose of claiming council tax benefit and for the receipt of claims to council tax benefit;

“disability living allowance” means a disability living allowance under Part III of the Contributions and Benefits Act 1992;

“disability working allowance” means a disability working allowance under section 123 of the Contributions and Benefits Act 1992;

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

“earnings” has the meaning prescribed in regulation 19 or, as the case may be, 21;

“eligible rent” shall be construed in accordance with regulation 10 of the Housing Benefit (General) Regulations 1987(7) (rent);

“employed earner” is to be construed in accordance with section 2(1)(a) of the Contributions and Benefits Act 1992;

“family” has the meaning assigned to it by section 137(1) of the Contributions and Benefits Act 1992;

“housing benefit” means housing benefit under Part VII of the Contributions and Benefits Act 1992;

“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;

“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;

“married couple” has the meaning assigned to it by section 137(1) of the Contributions and Benefits Act 1992;

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

“mobility supplement” means a supplement to which paragraph 7 of Schedule 3 refers;

(6) 1992 c. 4; council tax benefit was substituted for community charge benefit in Part VII by the Local Government Finance Act 1992 (c. 14) Schedule 9.

(7) 1987/1971; relevant amending instruments S.I. 1988/1971 and 1990/546.

- “net earnings” means such earnings as are calculated in accordance with regulation 20;
- “net profit” means such profit as is calculated in accordance with regulation 22;
- “non-dependant” has the meaning prescribed in regulation 3;
- “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”, means—
- (a) where a claimant is a member of a married or unmarried couple, the other member of that couple; or
 - (b) where a claimant is polygamously married to two or more members of his household, any such member to whom he is married;
- “payment” includes part of a payment;
- “person affected” means any person (including the appropriate authority) whose rights, duties or obligations are affected by a determination, whether or not on review, or by a decision on further review;
- “person on income support” means a person in receipt of income support;
- “policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or by the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;
- “polygamous marriage” means a marriage to which section 133(1) of the Contributions and Benefits Act 1992 refers;
- “qualifying person” means a person in respect of whom payment has been made from the Fund;
- “remunerative work” has the meaning prescribed in regulation 4;
- “resident” has the meaning as in Part I or II of the 1992 Act;
- “review board” means a board constituted in accordance with regulation 70(3) and Schedule 7;
- “second adult” has the meaning given to it in Schedule 2;
- “self-employed earner” is to be construed in accordance with section 2(1)(b) of the Contributions and Benefits Act 1992;
- “single claimant” means a claimant who neither has a partner nor is a lone parent;
- “student” has the meaning prescribed in regulation 38;
- “supplementary benefit” means a supplementary pension or allowance under section 1 or 4 of the Supplementary Benefit Act 1976(8);
- “the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;
- “the Independent Living Fund” means the charitable trust established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;
- “the Trusts” means

- (a) “the Macfarlane 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;
- (b) “the Macfarlane (Special Payments) Trust” established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;
- (c) “the Macfarlane (Special Payments) (No. 2) Trust”, 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;

“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, Scottish Enterprise or Highlands and Islands Enterprise;
- (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, Scottish Enterprise or Highlands and Islands Enterprise,

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⁽⁹⁾ or is training as a teacher;

“unmarried couple” has the meaning assigned to it by section 137(1) of the Contributions and Benefits Act 1992;

“water charges” means—

- (a) as respects England and Wales, any water charges under Chapter IV of Part II of the Water Act 1989⁽¹⁰⁾,
- (b) as respects Scotland, any water charges under Schedule 11 to the 1992 Act,

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

“year of assessment” has the meaning prescribed in section 832(1) of the Income and Corporation Taxes Act 1988⁽¹¹⁾;

“young person” has the meaning prescribed in regulation 5(1).

(2) In Schedule 5 references to a claimant occupying a dwelling or premises as his home shall be construed in accordance with regulation 5 of the Housing Benefit (General) Regulations 1987⁽¹²⁾.

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

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

(5) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered Part is to the Part of these Regulations bearing that number;

⁽⁹⁾ 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19).

⁽¹⁰⁾ 1989 c. 15.

⁽¹¹⁾ 1988 c. 1.

⁽¹²⁾ S.I. 1987/1971; relevant amending instruments are S.I. 1988/1971, 1990/1017 and 1549, 1991/235 and 387.

- (b) to a numbered regulation or Schedule is to the regulation in, or the Schedule to, these Regulations bearing that number;
- (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

Definition of non-dependant

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

(2) This paragraph applies to—

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

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

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

Remunerative work

4.—(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) 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 no recognisable cycle has been established in respect of a person's work, regard shall 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.

(4) A person shall 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.

(5) A person on income support for more than 3 days in any benefit week shall be treated as not being in remunerative work in that week.

PART II

Membership of a family

Persons of prescribed description for the definition of family in section 137(1) of the Contributions and Benefits Act 1992

5.—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of section 137(1) of the Contributions and Benefits Act 1992 (definition of family) as it applies to council tax benefit is a person aged 16 or over but under 19 who is treated as a child for the purposes of section 142 of that Act (meaning of child), and in these Regulations such a person is referred to as a "young person".

(2) Paragraph (1) shall not apply to a person who is on income support or to a person who is receiving advanced education within the meaning of regulation 12(2) of the Income Support (General) Regulations 1987(13)(relevant education).

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

6.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him.

(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 him; 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 shall be the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

7.—(1) Subject to paragraphs (2) and (3), the claimant and any partner and, where the claimant or his partner is treated as responsible by virtue of regulation 6 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person shall 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 shall not be treated as a member of the claimant’s household where he is—

- (a) placed with the claimant or his partner by a local authority under section 23(2)(a) of the Children Act 1989⁽¹⁴⁾ or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the claimant or his partner under a relevant enactment; or
- (b) placed, or in Scotland boarded out, with the claimant or his partner prior to adoption; or
- (c) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations 1983⁽¹⁵⁾ or the Adoption Agencies (Scotland) Regulations 1984⁽¹⁶⁾.

(3) Subject to paragraph (4), paragraph (1) shall not apply to a child or young person who is not living with the claimant and he—

- (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 claimant prior to adoption; or
- (c) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984.

(4) An authority shall treat a child or young person to whom paragraph (3)(a) applies as being a member of the claimant’s household in any benefit week where—

- (a) that child or young person lives with the claimant for part or all of that benefit 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 the Army Act 1955⁽¹⁷⁾, the Air Force Act 1955⁽¹⁸⁾, the Naval Discipline Act 1957⁽¹⁹⁾, the Matrimonial Proceedings (Children) Act 1958⁽²⁰⁾, the Social Work (Scotland) Act 1968⁽²¹⁾, the Family Law Reform Act 1969⁽²²⁾, the

⁽¹⁴⁾ 1989 c. 41.

⁽¹⁵⁾ S.I. 1983/1964.

⁽¹⁶⁾ S.I. 1984/988.

⁽¹⁷⁾ 1955 c. 18.

⁽¹⁸⁾ 1955 c. 19.

⁽¹⁹⁾ 1957 c. 53.

⁽²⁰⁾ 1958 c. 40.

⁽²¹⁾ 1968 c. 49.

⁽²²⁾ 1969 c. 46.

Children and Young Persons Act 1969⁽²³⁾, the Matrimonial Causes Act 1973⁽²⁴⁾, The Guardianship Act 1973⁽²⁵⁾, the Children Act 1975⁽²⁶⁾, the Domestic Proceedings and Magistrates Courts Act 1978⁽²⁷⁾, the Adoption (Scotland) Act 1978⁽²⁸⁾, the Family Law Act 1986⁽²⁹⁾ and the Children Act 1989.

PART III

Applicable amounts

Applicable amounts

8. Subject to regulations 9 and 10 (polygamous marriages and patients), a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may 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(1), (2) or (3), as the case may be, of Schedule 1;
- (b) an amount determined in accordance with paragraph 2 of Schedule 1 in respect of any child or young person who is a member of his family, except a child or young person whose capital, if calculated in accordance with Chapter VI of Part IV (income and capital) in like manner as for the claimant would exceed £3,000;
- (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 II of Schedule 1 (family premium);
- (d) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 1 (premiums).

Polygamous marriages

9. Subject to regulation 10 (patients), where a claimant is a member of a polygamous marriage, his weekly applicable amount shall be 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 1 (applicable amounts) as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in subparagraphs (3) and (1)(b) of paragraph 1 of Schedule 1 in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 2 of Schedule 1 (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, except a child or young person whose capital, if calculated in accordance with Chapter VI of Part IV (income and capital) in like manner as for the claimant would exceed £3,000;
- (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 II of Schedule 1 (family premium);

(23) 1969 c. 54.

(24) 1973 c. 18.

(25) 1973 c. 29.

(26) 1975 c. 72.

(27) 1978 c. 22.

(28) 1978 c. 28.

(29) 1986 c. 55.

- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 1 (premiums).

Patients

10.—(1) Where a person is a patient and has been a patient for a period of more than 6 weeks—

- (a) in the case of a single claimant, his applicable amount shall be £13.55;
- (b) in the case of a lone parent, his applicable amount shall be £13.55 plus any amount applicable to him under regulation 8(a) or (c) or (d) (applicable amounts) by virtue of his satisfying the condition specified in paragraph 8 or 15 of Schedule 1;
- (c) in the case of a married or unmarried couple—
 - (i) where the other member is not a patient, or, if a patient, has not been a patient for more than six weeks, his or, if he is not the claimant, the claimant's applicable amount shall be the amount applicable under regulation 8 (applicable amounts) reduced by £10.85,
 - (ii) where the other member is also a patient and has been a patient for more than six weeks, his or, as the case may be, the claimant's applicable amount shall be £27.10 plus any amounts applicable under regulation 8(b) or (c) or (d) by virtue of his satisfying the condition specified in paragraph 15 of Schedule 1;
- (d) if he is polygamously married—
 - (i) where at least one member of the polygamous marriage is not a patient, or, if a patient, has not been a patient for more than six weeks, the applicable amount under regulation 9 (polygamous marriages) shall be reduced by £10.85 in respect of each member who is a patient and has been a patient for more than 6 weeks;
 - (ii) where all members of a polygamous marriage are patients and have been patients for more than six weeks, the applicable amount shall be £13.55 in respect of each member plus any amounts applicable under regulation 9(c) or (d) or (e) by virtue of his satisfying the condition specified in paragraph 15 of Schedule 1.

(2) In paragraph (1), “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 the Social Security (Hospital InPatients) Regulations 1975⁽³⁰⁾.

(3) For the purposes of calculating the period of 6 weeks referred to in paragraph (1), where a person has been maintained free of charge while undergoing medical or other treatment as an in-patient in a hospital or similar institution for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been so maintained for a period equal in duration to the total of those distinct periods.

⁽³⁰⁾ S.I. 1975/555; relevant amending instrument is S.I. 1987/1683.

PART IV

Income and Capital

CHAPTER I

General

Calculation of income and capital of members of claimant's family and of a polygamous marriage

11.—(1) The income and capital of a claimant's partner and, subject to paragraph (2) and to regulation 27 (modifications in respect of a child and young person), the income of a child or young person which by virtue of section 136(1) of the Contributions and Benefits Act 1992 is to be treated as income and capital of the claimant, shall be calculated or estimated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall, except where the context otherwise requires, be construed for the purposes of this Part as if it were a reference to his partner or that child or young person.

(2) Regulations 20(2) and 22(2), so far as they relate to paragraphs 1 to 10 of Schedule 3 (sums to be disregarded in the calculation of earnings), and regulation 25(1) (capital treated as income) shall not apply to a child or young person.

(3) Where a claimant or the partner of a claimant is married polygamously to two or more members of his household—

- (a) the claimant shall be treated as possessing capital and income belonging to each such member and the income of any child or young person who is one of that member's family; and
- (b) the income and capital of that member or, as the case may be, the income of that child or young person shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant or, as the case may be, as for any child or young person who is a member of his family.

Circumstances in which income of non-dependant is to be treated as claimant's

12.—(1) Where it appears to the appropriate authority that a non-dependant and the claimant have entered into arrangements in order to take advantage of the council tax benefit scheme and the non-dependant has more capital and income than the claimant, that authority shall, except where the claimant is on income support, treat the claimant as possessing capital and income belonging to that non-dependant and, in such a case, shall disregard any capital and income which the claimant does possess.

(2) Where a claimant is treated as possessing capital and income belonging to a non-dependant under paragraph (1) the capital and income of that non-dependant shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant and any reference to "the claimant" shall, except where the context otherwise requires, be construed for the purposes of this Part as if it were a reference to that non-dependant.

CHAPTER II

Income

Calculation of income on a weekly basis

13.—(1) Subject to regulation 18 (disregard of changes in tax, contributions etc), for the purposes of section 131(5) of the Contributions and Benefits Act 1992 (conditions of entitlement to council tax benefit) the income of a claimant shall be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be his average weekly income over the benefit period in accordance with this Chapter and Chapters III to V of this Part and Part V; and
- (b) by adding to that amount the weekly income calculated under regulation 37 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) “income” includes capital treated as income under regulation 25 (capital treated as income) and income which a claimant is treated as possessing under regulation 26 (notional income).

Average weekly earnings of employed earners

14.—(1) Where a claimant’s income consists of earnings from employment as an employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment—

- (a) over a period immediately preceding the benefit 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 sub-paragraph (a)(i) or (ii) applies, where a claimant’s earnings fluctuate, over such other period preceding the benefit week in which the claim is made or treated as made may, in any particular case, enable his average weekly earnings over the benefit period to be estimated more accurately.

(2) Where the claimant has been in his employment for less than the period specified in 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 shall be estimated by reference to those earnings;
- (b) in any other case, the appropriate authority shall require the claimant’s employer to furnish an estimate of the claimant’s likely weekly earnings over such period as the appropriate authority may require and the claimant’s average weekly earnings shall be estimated by reference to that estimate.

(3) Where the amount of a claimant’s earnings changes during a benefit period the appropriate authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over the remainder of the benefit period.

(4) For the purposes of this regulation the claimant’s earnings shall be calculated in accordance with Chapter III of this Part.

Average weekly earnings of self-employed earners

15.—(1) Where a claimant’s income consists of earnings from employment as a selfemployed earner his average weekly earnings shall be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings over the

benefit period may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.

(2) For the purposes of this regulation the claimant's earnings shall be calculated in accordance with Chapter IV of this Part.

Average weekly income other than earnings

16.—(1) A claimant's income which does not consist of earnings shall, except where paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income over the benefit period may be estimated accurately but the length of the period shall not in any case exceed 52 weeks; and nothing in this paragraph shall authorise an authority to disregard any such income other than that specified in Schedule 4.

(2) The period over which any benefit under the Contributions and Benefits Act 1992 is to be taken into account shall be the period in respect of which that benefit is payable.

(3) For the purposes of this regulation income other than earnings shall be calculated in accordance with Chapter V of this Part.

Calculation of weekly income

17. For the purposes of regulations 14 to 16 (average weekly income), where the period in respect of which a payment is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall 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 quotient by 7.

Disregard of changes in tax, contributions etc

18. In calculating the claimant's income the appropriate 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 Contributions and Benefits Act 1992 or in the lower earnings limit or weekly earnings figures for Class 1 contributions under that Act;
- (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 that Act,

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

CHAPTER III

Employed Earners

Earnings of employed earners

19.—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner, 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 a claimant 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 claimant’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 claimant’s employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment,
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
 - (g) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978⁽³¹⁾ (remedies and compensation for unfair dismissal);
 - (h) any such sum as is referred to in section 112 of the Contributions and Benefits Act 1992 (certain sums to be earnings for social security purposes);
 - (i) any statutory sick pay under Part XI of the Contributions and Benefits Act 1992 or statutory maternity pay under Part XII of that Act.
- (2) Earnings shall not include—
- (a) 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.

Calculation of net earnings of employed earners

20.—(1) For the purposes of regulation 14 (average weekly earnings of employed earners), the earnings of a claimant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant’s net earnings, any sum, where applicable, specified in paragraphs 1 to 12 of Schedule 3.

⁽³¹⁾ 1978 c. 44; section 68(2) was amended by section 21 and Schedule 3 paragraph 21 of the Employment Act 1982 (c. 46); section 71(2) was amended by sections 5 and 21, Schedule 3 paragraph 22 and Schedule 4 of the Employment Act 1982.

(3) For the purposes of paragraph (1) net earnings shall, except where paragraph (4) applies, be calculated by taking into account the gross earnings of the claimant 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 Contributions and Benefits Act 1992; and
- (b) one-half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

(4) Where the earnings of a claimant are estimated under paragraph (2) of regulation 14 (average weekly earnings of employed earners), his net earnings shall 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 in the year of assessment in which the claim was made less only the personal relief to which the claimant is entitled under sections 257(1), (6) and (7) and 259(1)(a) and (2) of the Income and Corporation Taxes Act 1988 (personal relief) as is appropriate to his circumstances but, if the assessment period is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a prorata basis;
- (b) an amount in respect of primary Class 1 contributions payable under the Contributions and Benefits Act 1992 in respect of those earnings; and
- (c) one-half of any sum payable by the claimant by the way of a contribution towards an occupational or personal pensions scheme.

CHAPTER IV

Self-Employed Earners

Earnings of self-employed earners

21. “Earnings”, in the case of employment as a self-employed earner, means the gross income of the employment and shall include any allowance paid under section 2 of the Employment and Training Act 1973⁽³²⁾ or section 2 of the Enterprise and New Towns (Scotland) Act 1990⁽³³⁾ to the claimant for the purpose of assisting him in carrying on his business.

Calculation of net profit of self-employed earners

22.—(1) For the purposes of regulation 15 (average weekly earnings of self-employed earners) the earnings of a claimant 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⁽³⁴⁾, 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 Contributions and Benefits Act 1992 calculated in accordance with regulation 23 (deduction of tax and contributions for selfemployed earners), and

⁽³²⁾ 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19).

⁽³³⁾ 1990 c. 35.

⁽³⁴⁾ S.I. 1975/529.

(ii) one-half of any qualifying premium payable.

(2) There shall be disregarded from a claimant's net profit, any sum, where applicable, specified in paragraphs 1 to 12 of Schedule 3.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less—

- (a) subject to 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 Contributions and Benefits Act 1992, calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and
- (c) one-half of any qualifying premium payable.

(4) For the purposes of 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 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 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 appropriate authority shall refuse to make a deduction in respect of any expense under 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 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 Contributions and Benefits Act 1992, calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and
- (b) one-half of any qualifying premium payable.

(10) For the avoidance of doubt, where a claimant is engaged in employment as a selfemployed earner and he is also engaged in one or more other employments as a selfemployed earner 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) In this regulation “qualifying premium” means any premium or other consideration payable under an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision for the claimant of a life annuity in old age or the provision of an annuity for his partner or for any one or more of his dependants and in respect of which relief for income tax may be given.

Deduction of tax and contributions for self-employed earners

23.—(1) The amount to be deducted in respect of income tax under regulation 22(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax in the year of assessment in which the claim was made less only the personal relief to which the claimant is entitled under sections 257(1), (6) and (7) and 259(1)(a) and (2) of the Income and Corporation Taxes Act 1988 (personal relief) as is appropriate to his circumstances; but, if the assessment period is less than a year, the amount of the personal relief deductible under this paragraph shall be calculated on a pro-rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 22(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, (3) of the Contributions and Benefits Act 1992 except where the claimant’s chargeable income is less than the amount for the time being specified in section 11(4) of that Act (small earnings exception); and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under Tax Acts) in respect of profits or gains equal to the amount of that income.

(3) In this regulation “chargeable income” means—

- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 22;
- (b) in the case of employment as a child minder, one third of the earnings of that employment.

CHAPTER V

Other Income

Calculation of income other than earnings

24.—(1) For the purposes of regulation 16 (average weekly income other than earnings), the income of a claimant which does not consist of earnings to be taken into account shall, subject to paragraphs (2) to (4), be his gross income and any capital treated as income under regulation 25 (capital treated as income).

(2) There shall be disregarded from the calculation of a claimant's gross income under paragraph (1) any sum, where applicable, specified in Schedule 4.

(3) Where the payment of any benefit under the Contributions and Benefits Act 1992 is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

(4) Where a loan is made to a person pursuant to arrangements made under section 1 of the Education (Students Loans) Act 1990⁽³⁵⁾ or Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990⁽³⁶⁾ and that person ceases to be a student before the end of the academic year in respect of which the loan is payable or, as the case may be, before the end of his course, a sum equal to the weekly amount apportionable under paragraph (2) of regulation 47 shall be taken into account under paragraph (1) for each week, in the period over which the loan fell to be apportioned, following the date on which that person ceases to be a student; but in determining the weekly amount apportionable under paragraph (2) of regulation 47 so much of that paragraph as provides for a disregard shall not have effect.

(5) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1) any payment to which regulation 19(2) applies (payments not earnings).

Capital treated as income

25.—(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 review, shall, if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Chapter VI exceeds £16,000, be treated as income.

(2) Any payment received under an annuity shall be treated as income.

(3) Any earnings to the extent that they are not a payment of income shall be treated as income.

Notional income

26.—(1) A claimant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to council tax benefit or increasing the amount of that benefit.

(2) Except in the case of a discretionary trust or a trust derived from a payment made in consequence of a personal injury, any income which would become available to the claimant upon application being made, but which has not been acquired by him, shall be treated as possessed by the claimant 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 made under the Trusts, the Fund or the Independent Living Fund, made—

⁽³⁵⁾ 1990 c. 6.

⁽³⁶⁾ S.I. 1990/1506 (N.I. 11).

- (a) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, or eligible rent to which regulation 10 of the Housing Benefit (General) Regulations 1987 refers, of that single claimant or, as the case may be, of any member of that family or is used for any council tax, or water charges for which that claimant or member is liable;
- (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Where a claimant is in receipt of any benefit (other than council tax benefit) under the Contributions and Benefits Act 1992 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 appropriate authority shall treat the claimant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year whichever date the appropriate authority shall select to apply in its area, to the date on which the altered rate is to take effect.

(5) Where—

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

the appropriate authority shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service; but this paragraph shall not apply to a claimant who is engaged by a charitable or voluntary body or is a volunteer if the appropriate authority is satisfied that it is reasonable for him to provide his services free of charge.

(6) Where a claimant is treated as possessing any income under any of paragraphs (1) to (3), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(7) Where a claimant is treated as possessing any earnings under paragraph (5), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 20 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax in the year of assessment in which the claim was made less only the personal relief to which the claimant is entitled under sections 257(1), (6) and (7) and 259(1)(a) and (2) of the Income and Corporation Taxes Act 1988 (personal relief) as is appropriate to his circumstances; but, if the assessment period is less than a year the amount of the personal relief deductible under this sub-paragraph shall be calculated on a prorata basis;
- (b) an amount in respect of primary Class 1 contributions payable under the Contributions and Benefits Act 1992 in respect of those earnings; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.

(8) In paragraph (3), the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.

Modifications in respect of child or young person

27.—(1) Where the income of a child or young person, other than income consisting of any payment of maintenance whether under a court order or not, calculated in accordance with the foregoing provisions of this Part exceeds the amount included under Schedule 1 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, the excess shall not be treated as income of the claimant.

(2) Where the capital of a child or young person, if calculated in accordance with Chapter VI in like manner as for the claimant would exceed £3,000, any income of that child or young person shall not be treated as income of the claimant.

(3) In calculating the net earnings or net profit of a child or young person there shall be disregarded (in addition to any sum which falls to be disregarded under paragraphs 11 and 12) any sum specified in paragraphs 13 and 14 of Schedule 3.

(4) Any income of a child or young person which is to be disregarded under Schedule 4 shall be disregarded in such manner as to produce the result most favourable to the claimant.

CHAPTER VI

Capital

Capital limit

28. For the purposes of section 134(1) of the Contributions and Benefits Act 1992 as it applies to council tax benefit (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £16,000.

Calculation of capital

29. For the purposes of Part VII of the Contributions and Benefits Act 1992 as it applies to council tax benefit, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 31 (income treated as capital).

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

Disregard of capital of child or young person

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

Income treated as capital

31.—(1) Any bounty derived from employment to which paragraph 6 of Schedule 3 applies and paid at intervals of at least one year shall be treated as capital.

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

(3) Any holiday pay which is not earnings under regulation 19(1)(d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 4, 7, 13 or 24 to 27 of Schedule 5, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

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

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under the Trusts, the Fund or the Independent Living Fund, shall be treated as capital.

Calculation of capital in the United Kingdom

32. Capital which a claimant possesses in the United Kingdom shall be calculated—

- (a) except in a case to which sub-paragraph (b) applies, at its current market or surrender value less—
 - (i) where there would be expenses attributable to sale, 10 per cent., and
 - (ii) the amount of any incumbrance secured on it;
- (b) in the case of a National Savings Certificate—
 - (i) if purchased from an issue the sale of which ceased before 1st July last preceding the date on which the claim is made or treated as made, or the date of any subsequent review, at the price which it would have realised on that 1st July had it been purchased on the last day of that issue;
 - (ii) in any other case, at its purchase price.

Calculation of capital outside the United Kingdom

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

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

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

Notional Capital

34.—(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purposes of securing entitlement to council tax benefit or increasing the amount of such benefit except to the extent that that capital is reduced in accordance with regulation 35 (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 5,

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

(3) Any payment of capital, other than a payment of capital made under the Trusts, the Fund or Independent Living Fund, made—

- (a) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or, eligible rent to which regulation 10 of the Housing Benefit (General) Regulations 1987 refers, of that single claimant or, as the case may be, of any member of that family or is used for any council tax, or water charges for which that claimant or member is liable;
 - (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him by or on behalf of any member of the family.
- (4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—
- (a) the value of his holding in that company shall, notwithstanding regulation 29 (calculation of capital) be disregarded; and
 - (b) he shall, subject to paragraph (5), 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.
- (5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.
- (6) Where a claimant is treated as possessing capital under any of paragraphs (1) to (3) the foregoing provisions of this Chapter shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.
- (7) In paragraph (3) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use but does not include school uniforms, or clothing or footwear used solely for sporting activities.

Diminishing notional capital rule

35.—(1) Where a claimant is treated as possessing capital under regulation 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 paragraph (2) are satisfied, or
 - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph (3);
 - (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week, and
 - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied, shall be reduced by the amount determined under paragraph (4).
- (2) This paragraph applies to a benefit week or part week where the claimant satisfies the conditions that—
- (a) he is in receipt of council tax benefit; and
 - (b) but for regulation 34(1), he would have received an additional amount of council tax benefit in that week.

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

- (a) the additional amount to which sub-paragraph (2)(b) refers;
- (b) where the claimant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 43(1) of the Housing Benefit (General) Regulations 1987 (notional capital)(37);
- (c) where the claimant has also claimed family credit, the amount of family credit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 34(1) of the Family Credit (General) Regulations 1987 (notional capital)(38);
- (d) 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 (General) Regulations 1987 (notional capital)(39).

(4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to council tax benefit in the relevant week but for regulation 34(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of council tax benefit to which the claimant would have been entitled in the relevant week but for regulation 34(1); and for the purposes of this subparagraph 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 43(1) of the Housing Benefit (General) Regulations 1987 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 partweek, 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 34(1) of the Family Credit (General) Regulations 1987, have been entitled to family credit or to an additional amount of that benefit in respect of the benefit week within the meaning of regulation 34A(8)(a) of those Regulations(40) (diminishing notional capital rule), which includes the last day of the relevant week,
 - (i) in a case where no family credit 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 family credit to which he would have been entitled; and

(37) S.I. 1987/1971; relevant amending instruments are S.I. 1988/1971, 1990/127 and 1775 and 1991/1599.

(38) S.I. 1987/1973; relevant amending instrument is S.I. 1990/1774.

(39) S.I. 1987/1967; relevant amending instrument is S.I. 1990/1776.

(40) S.I. 1987/1973; regulation 34A was inserted by S.I. 1990/1774.

- (d) if the claimant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of these 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.
- (5) The amount determined under paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for council tax benefit and the conditions in paragraph (6) are satisfied, and in such a case—
- (a) sub-paragraphs (a) and (b) of paragraph (4) shall apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and
- (b) subject to 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 benefit in respect of which he was first treated as possessing the capital in question under regulation 34(1),
- (ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which he last made a claim for council tax benefit which resulted in the weekly amount being re-determined, or
- (iii) the date on which he last ceased to be entitled to council tax benefit, whichever last occurred; and
- (b) the claimant would have been entitled to council tax benefit but for regulation 34(1).
- (7) The amount as re-determined pursuant to 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 regulation—
- (a) “part-week”
- (i) in paragraph (4)(a) means a period of less than a week for which council tax benefit is allowed;
- (ii) in paragraph (4)(b) means a period of less than a week for which housing benefit is payable;
- (b) “part-week” in paragraph (4)(d) means—
- (i) a period of less than a week which is the whole period for which income support is payable; and
- (ii) any other period of less than a week for which it is payable;
- (c) “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 regulation 34(1)—
- (i) was first taken into account for the purpose of determining his entitlement to council tax benefit, or
- (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to council tax benefit on that subsequent occasion

and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax benefit,

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

- (d) “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

36. Except where a claimant possesses capital which is disregarded under regulation 34(4) (notional capital) where a claimant and one or more persons are beneficially entitled in possession to any capital asset they shall 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 shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess.

Calculation of tariff income from capital

37.—(1) Where the claimant’s capital calculated in accordance with this Part exceeds £3000 it shall be treated as equivalent to a weekly tariff income of £1 for each complete £250 in excess of £3,000 but not exceeding £16,000.

(2) Notwithstanding paragraph (1) where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 31 (income treated as capital).

PART V

Students

CHAPTER I

General

Interpretation

38. In this Part, unless the context otherwise requires—

“contribution” means any contribution in respect of the income of any other person which a Minister of the Crown or an education authority as defined in regulation 46 of the Housing Benefit (General) Regulations 1987(41) takes into account in assessing the amount of the student’s grant and by which the amount is, as a consequence, reduced;

“course of study” means any full-time or part-time course of study or sandwich course whether or not a grant is made for attending it;

“covenant income” means the gross income payable to a full-time student under a Deed of Covenant by his parent including any sum deducted from the gross amount for tax;

“full-time student” includes a student on a sandwich course;

(41) S.I. 1987/1971; relevant amending instruments are S.I. 1988/1971, 1990/1549, 1991/1599 and 1992/432.

“grant” means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment derived from funds made available by the Secretary of State for the purpose of assisting students in financial difficulties under section 100 of the Education Act 1944⁽⁴²⁾, sections 131 and 132 of the Education Reform Act 1988⁽⁴³⁾ or section 73 of the Education (Scotland) Act 1980⁽⁴⁴⁾;

“grant income” means—

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

“last day of the course” means 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) in a case where the student’s grant is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant, where it would have been assessed at such a rate had he had one, the day before the start of the next year of the course, or
 - (ii) in any other case, the day before the start of the recognised 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” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1991⁽⁴⁵⁾;

“sandwich course” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1991;

“standard maintenance grant” means—

- (a) in the case of a student attending 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 1991 for such a student; and
- (b) in any other case the amount specified in paragraph 2(2) of Schedule 2 other than in subparagraph (a) or (b) thereof;

“student” means a person, other than a person in receipt of a training allowance, who is attending a course of study at an educational establishment and a person who has started on such a course shall be treated as attending it throughout any period of term or vacation within it, until the last day of the course or such earlier date as he abandons it or is dismissed from it;

“year” in relation to a course means the period of 12 months beginning on 1st January, 1st April or 1st September according to whether the academic year of the course in question begins in the spring, the summer or the autumn respectively.

⁽⁴²⁾ 1944 c. 31.

⁽⁴³⁾ 1988 c. 40.

⁽⁴⁴⁾ 1980 c. 44.

⁽⁴⁵⁾ S.I. 1991/1838.

Treatment of students

39. These Regulations shall have effect in relation to students subject to the following provisions of this Part.

Students who are excluded from entitlement to council tax benefit

40.—(1) Except to the extent that a student may be entitled to an alternative maximum council tax benefit by virtue of section 131(3) and (6) of the Contributions and Benefits Act 1992, a student to whom paragraph (2) applies is a person of a prescribed class for the purposes of section 131(3) (b) of that Act (persons excluded from entitlement to council tax benefit).

(2) Subject to paragraph (3), this paragraph applies to a full-time student and students to whom regulation 41(1) refers (students from abroad).

(3) Except with respect to students to whom regulation 41(2) refers, paragraph (2) shall not apply to a student—

- (a) who is a person on income support;
- (b) whose applicable amount would, but for this regulation, include the lone parent premium, pensioner premium for persons under 75 or, as the case may be, persons 75 or over, higher pensioner premium, disability premium or severe disability premium;
- (c) 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;
- (d) who is a single claimant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989(46) or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968(47);
- (e) who is aged under 19 and whose course of study is not a course of higher education;
- (f) in respect of whom—
 - (i) a supplementary requirement has been determined under paragraph 15 of Schedule 2 to the Education (Mandatory Awards) Regulations 1987(48) or the Education (Mandatory Awards) Regulations 1988(49), paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1989(50), paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1990(51) or paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1991(52); or
 - (ii) an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 6 of the Students' Allowances (Scotland) Regulations 1987(53) or, as the case may be, the Education Authority Bursaries (Scotland) Regulations 1988(54) in respect of expenses incurred; or
 - (iii) a payment has been made under section 2 of the Education Act 1962(55); or
 - (iv) a supplementary requirement has been determined under paragraph 15 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1987(56), paragraph 15

(46) 1989 c. 41.

(47) 1968 c. 49.

(48) S.I. 1987/1261; revoked by S.I. 1988/1360.

(49) S.I. 1988/1360; revoked by S.I. 1989/1458.

(50) S.I. 1989/1458; revoked by S.I. 1990/1628.

(51) S.I. 1990/1628; revoked by S.I. 1991/1838.

(52) S.I. 1991/1838.

(53) S.I. 1987/864.

(54) S.I. 1988/1042.

(55) 1962 c. 12.

(56) S.R. 1987 No. 420; revoked by S.R. 1988 No. 445.

of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1988⁽⁵⁷⁾, paragraph 12 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1990⁽⁵⁸⁾ or paragraph 12 of Schedule 7 to the Students Awards (No. 2) Regulations (Northern Ireland) 1990⁽⁵⁹⁾ or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986⁽⁶⁰⁾,

on account of his disability by reason of deafness.

(4) In paragraph (3)(e) 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⁽⁶¹⁾ or any course to which Schedule 1 to the Education (Student Loans) Act 1990⁽⁶²⁾ refers.

(5) A full-time student to whom sub-paragraph (f) of paragraph (3) applies, shall 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.

Further provision with respect to students entering the United Kingdom from abroad

41.—(1) Except in the case of a student who is a person on income support, a student with limited leave or without leave to enter or remain in the United Kingdom is a prescribed person for the purposes of section 131(6) of the Contributions and Benefits Act 1992 (persons not entitled to council tax benefit).

(2) For the purposes of paragraph (1) “student with limited leave or without leave to enter or remain in the United Kingdom” means a person who is present in the United Kingdom for the purpose of attending a course of education, whether or not he is for the time being engaged in a programme of studies, and who—

- (a) is a person other than a national of a member State or a person to whom the European Convention on Social and Medical Assistance done in Paris on 11th December 1953⁽⁶³⁾ applies, who has a limited leave (as defined in section 33(1) of the Immigration Act 1971⁽⁶⁴⁾) to enter or remain in the United Kingdom which has been given in accordance with any provision of immigration rules (as defined in section 33(1) of that Act) which refers to there being, or to there needing to be, no recourse to public funds, or to there being no charge on public funds, during that limited leave; or
- (b) having a limited leave (as defined in section 33(1) of the Immigration Act 1971) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (c) is the subject of a deportation order, that is to say an order within section 5(1) of the Immigration Act 1971 (procedure relating to deportation) requiring him to leave and prohibiting him from entering the United Kingdom; or
- (d) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the Immigration Act 1971) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom.

⁽⁵⁷⁾ S.R. 1988 No. 445; revoked by S.R. 1990 No. 23.

⁽⁵⁸⁾ S.R. 1990 No. 23; revoked by S.R. 1990 No. 427.

⁽⁵⁹⁾ S.R. 1990 No. 427.

⁽⁶⁰⁾ S.I. 1986/594 (N.I. 3).

⁽⁶¹⁾ 1988 c. 40.

⁽⁶²⁾ 1990 c. 6.

⁽⁶³⁾ Cmnd 9512.

⁽⁶⁴⁾ 1971 c. 77, as amended by section 39 and Schedule 4 of the British Nationality Act 1981 (c. 61).

CHAPTER II

Income

Calculation of grant income

42.—(1) The amount of a student's grant income to be taken into account shall, subject to paragraphs (2) and (3), be the whole of his grant income.

(2) There shall be excluded from a student's grant income any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) intended to meet the cost of special equipment for a student on a course which began before 1st September 1986 in architecture, art and design, home economics, landscape architecture, medicine, music, ophthalmic optics, orthoptics, physical education, physiotherapy, radiography, occupational therapy, dental hygiene, dental therapy, remedial gymnastics, town and country planning and veterinary science or medicine;
- (c) in respect of the student's disability;
- (d) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (e) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (f) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
- (g) intended to meet the cost of books and equipment (other than special equipment) or, in the case of a full-time student, if not so intended an amount equal to £257 towards such costs;
- (h) intended to meet travel expenses incurred as a result of his attendance on the course.

(3) Where in pursuance of an award a student is in receipt of a grant in respect of maintenance under regulation 17(b) of the Education (Mandatory Awards) Regulations 1991 (payments), there shall be excluded from his grant income a sum equal to the amount specified in paragraph 7(4) of Schedule 2 to those Regulations (disregard of travel costs) being the amount to be disregarded in respect of travel costs in the particular circumstances of his case.

(4) A student's grant income shall be apportioned—

- (a) subject to paragraph (4), in a case where it is attributable to the period of study, equally between the weeks in that period;
- (b) in any other case, equally between the weeks in the period in respect of which it is payable.

(5) In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the remaining weeks in that period.

Calculation of covenant income where a contribution is assessed

43.—(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 shall be the whole amount of the covenant income less, subject to paragraph (3), the amount of the contribution and the amount deducted by way of tax in respect of that income.

(2) The weekly amount of the student's covenant income shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and

(b) by disregarding from the resulting amount, £5.

(3) For the purposes of paragraph (1), the contribution shall be treated as increased by the amount (if any) by which the amount excluded under regulation 42(2)(h) (calculation of grant income) falls short of the amount specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1991 (travel expenditure).

Covenant income where no grant income or no contribution is assessed

44.—(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 42(2)(a) to (f) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
- (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under regulation 42(2)(g) and (h) (calculation of grant income) had the student been in receipt of the standard maintenance grant;
- (d) there shall be deducted from any amount in excess of the sums in subparagraphs (a) and (b) the amount deducted by way of tax in respect of the covenanted income; and
- (e) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall 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 shall be calculated in accordance with sub-paragraphs (a) to (e) of paragraph (1), except that—

- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under regulation 42(2) (a) to (f); and
- (b) the amount to be disregarded under paragraph (1)(c) shall be abated by an amount equal to the amount of any sums disregarded under regulation 42(2)(g) and (h) and (3).

Relationship with amounts to be disregarded under Schedule 4

45. No part of a student's covenant income or grant income shall be disregarded under paragraph 13 of Schedule 4 and any other income shall be disregarded thereunder to the extent that the amount disregarded under regulation 43(2)(b) (calculation of covenant income where a contribution is assessed) or, as the case may be, 44(1)(e) (covenant income where no grant income or no contribution is assessed) is less than £10.

Other amounts to be disregarded

46. For the purposes of ascertaining income other than grant income and covenant income, any amounts intended for any expenditure specified in regulation 42(2) (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 42(2), 43(3) or 44(1)(a) or (c) (calculation of grant and covenant income) on like expenditure.

Treatment of student loans

47.—(1) A loan which is made to a student pursuant to arrangements made under section 1 of the Education (Student Loans) Act 1990⁽⁶⁵⁾ or Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990⁽⁶⁶⁾ shall be treated as income.

(2) In calculating the weekly amount of the loan to be taken into account as income—

- (a) except where sub-paragraph (b) applies, the loan shall be apportioned equally between the weeks in the academic year in respect of which the loan is payable;
- (b) in the case of a loan which is payable in respect of the final academic year of the course or, if the course is only of one academic year's duration, in respect of that year, the loan shall be apportioned equally between the weeks in the period beginning with the start of the final academic year or, as the case may be, the single academic year and ending with the last day of the course,

and from the weekly amount so apportioned there shall be disregarded £10.

(3) Any loan for which a student is eligible in respect of an academic year under the arrangements mentioned in paragraph (1) but which has not been acquired by him shall be treated as possessed by him and paragraphs (1) and (2) shall apply accordingly; and for the purposes of this paragraph the loan for which a student is eligible is the maximum amount payable to him under those arrangements.

Disregard of contribution

48. Where the claimant or his partner is a student and the income of one is taken into account for the purposes of assessing a contribution to the student's grant, an amount equal to the contribution shall be disregarded for the purposes of calculating the income of the one liable to make that contribution.

Income treated as capital

49. Any amount by way of a refund of tax deducted from a student's covenant income shall be treated as capital.

Disregard of changes occurring during summer vacation

50. In calculating a student's income the appropriate authority shall 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 VI

Amount of Benefit

Maximum council tax benefit

51.—(1) Subject to paragraphs (2) to (4), the amount of a person's maximum council tax benefit in respect of a day for which he is liable to pay council tax, shall be 100 per cent. of the amount

$$\frac{A}{B}$$

⁽⁶⁵⁾ 1990 c. 6.

⁽⁶⁶⁾ S.I. 1990/1506 (N.I. 11).

where—

- a A is the amount set by the appropriate 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 section 11 or 79 of 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 regulation 52 (non-dependant deductions).

(2) In calculating a person's maximum council tax benefit—

- (a) any reduction in the amount that person is liable to pay in respect of council tax in consequence of regulations made under sections 13 and 80 of the 1992 Act (reduced amounts of council tax) shall be taken into account;
- (b) any reduction in the amount that person is liable to pay in respect of council tax by virtue of Schedule 2 paragraph 6 of the 1992 Act (reductions for lump sum payments), shall be disregarded.

(3) Subject to paragraph (4), where a claimant 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 benefit in his case in accordance with paragraph (1), the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph (3) shall not apply in his case.

Non-dependant deductions

52.—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 51 (maximum council tax benefit) shall be—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, $£2.00 \times 1/7$
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, $£1.00 \times 1/7$

(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is less than £100.00, the deduction to be made under this regulation shall be that specified in paragraph (1)(b).

(3) Only one deduction shall be made under this regulation in respect of a married or unmarried 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 paragraph (2) in the case of a married or unmarried couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of that 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 or 77 of the 1992 Act (liability of spouses); and

(c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons,
the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.

(6) No deduction shall be made in respect of any non-dependants occupying a claimant's dwelling if the claimant or his partner is—

- (a) blind or treated as blind by virtue of paragraph 13 of Schedule 1 (additional condition of the higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—
 - (i) attendance allowance; or
 - (ii) the care component of the disability living allowance.

(7) No deduction shall be made in respect of a non-dependant if—

- (a) although he resides with the claimant, it appears to the appropriate authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with a Youth Training Scheme established under section 2 of the Employment and Training Act 1973(67) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(68); or
- (c) he is a full-time student within the meaning of Part V (Students); or
- (d) he is not residing with the claimant because he has been a patient for a period in excess of six weeks, and for these purposes—
 - (i) "patient" has the meaning given in regulation 10(2) (patients), and
 - (ii) the period of six weeks shall be calculated by reference to paragraph (3) of that regulation as if that paragraph applied in his case.

(8) No deduction shall be made in respect of a non-dependant—

- (a) who is on income support; or
- (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

(9) In the application of paragraph (2) there shall be disregarded from his weekly gross income any attendance allowance or any disability living allowance received by him.

Council tax benefit taper

53. The prescribed percentage for the purpose of sub-section (5)(c)(ii) of section 131 of the Contributions and Benefits Act 1992 as it applies to council tax benefit, (percentage of excess of income over the applicable amount which is deducted from maximum council tax benefit)(69), shall be 2##/## per cent..

Alternative maximum council tax benefit

54.—(1) Subject to paragraphs (2) and (3), the alternative maximum council tax benefit where the conditions set out in section 131(3) and (6) of the Contributions and Benefits Act 1992 are fulfilled, shall be the amount determined in accordance with Schedule 2.

(67) 1973 c. 50; section 2 was substituted by section 25 Employment Act 1988 (c. 19).

(68) 1990 c. 35.

(69) Section 131 of the Contributions and Benefits Act 1992 as it applies to council tax benefit was substituted by the Local Government Finance Act 1992 (c. 14) Schedule 9 paragraph 4.

(2) Subject to paragraph (3), where a claimant 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 benefit in his case, the amount determined in accordance with Schedule 2 shall be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 or 77 of the 1992 Act (liability of spouses), paragraph (2) shall not apply in his case.

Residents of a dwelling to whom section 131(6) of the Contributions and Benefits Act 1992 does not apply

55. Subsection (6) of section 131 of the Contributions and Benefits Act 1992 (residents of a dwelling in respect of whom entitlement to an alternative maximum council tax benefit may arise) shall not apply in respect of any person referred to in the following paragraphs namely—

- (a) a person who is liable for council tax solely in consequence of the provisions of sections 9 or 77 of the 1992 Act (spouse's joint and several liability for tax);
- (b) a person who is residing with a married or unmarried couple or with the members of a polygamous marriage where the claimant for council tax benefit is a member of that couple or of that marriage and neither member of that couple or in the case of a polygamous marriage no member or only one member of that marriage is a person who, in accordance with Schedule 1 of the 1992 Act, falls to be disregarded for the purposes of discount;
- (c) a person who jointly with the claimant for benefit falls within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the claimant;
- (d) a person who is residing with two or more persons both or all of whom fall within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act where none or only one of those persons is a person who in accordance with Schedule 1 of the 1992 Act falls to be disregarded for the purposes of discount.

PART VII

Benefit periods, changes of circumstances and increases for exceptional circumstances

Date on which entitlement is to begin

56.—(1) Subject to paragraph (2) and to regulation 62(13) to (15) (renewal claims) any person by whom or in respect of whom a claim for council tax benefit is made and who is otherwise entitled to that benefit shall be so entitled from the benefit week following the date on which that claim is made or is treated as made.

(2) Where a person is otherwise entitled to council tax benefit and becomes liable for the first time for an appropriate authority's council tax in respect of a dwelling of which he is a resident in the benefit week in which his claim is made or is treated as made, he shall be so entitled from that benefit week.

Benefit period

57.—(1) Where a person is entitled to council tax benefit the appropriate authority shall make an award for a specified period ("the benefit period") commencing with—

- (a) the first benefit week in respect of which he is so entitled; or if later

(b) the benefit week in which the claim is received at the designated office.

(2) The benefit period shall be such number of benefit weeks as the appropriate authority shall determine having regard in particular to any relevant circumstances which the appropriate authority reasonably expects may affect entitlement in the future.

(3) Subject to paragraph (4), the benefit period shall not exceed 60 benefit weeks.

(4) Where a claimant either is on income support or, although not in receipt thereof, has included in the calculation of his applicable amount the disability premium, the severe disability premium or the higher pensioner premium, and a claim for a further award of council tax benefit has not been made by the last benefit week of his benefit period, the appropriate authority may extend the current benefit period by not more than 4 benefit weeks.

Date on which benefit period is to end

58. The benefit period shall end with the last day of the final week of that period, determined by the appropriate authority in accordance with regulation 57(2) to (4) (benefit period) unless—

- (a) the claimant is a person on income support and he ceases to be so entitled except in cases to which sub-paragraph (b) refers, when the benefit period will end with the last day of the benefit week in which the cessation of his entitlement takes effect in accordance with regulation 59 (date when change of circumstances is to take effect);
- (b) the claimant is a person on income support and he ceases to be so entitled on account of an award of benefit under the Contributions and Benefits Act 1992, when the benefit period will end at the end of the benefit week in which the payment of income support ceases; or
- (c) the appropriate authority determines that some other change of circumstances has occurred which should result in the benefit period ending with an earlier week, when the benefit period will end with the last day of that week.

Date on which change of circumstances is to take effect

59.—(1) Except in cases where regulation 18 (disregard of changes in tax, contributions, etc) applies and subject to paragraphs (2) to (7), a change of circumstances which affects entitlement to, or the amount of, council tax benefit (“change of circumstances”), shall take effect from the first day of the benefit week following the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the Contribution and Benefits Act 1992, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.

(2) Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it shall take effect from the day on which it actually occurs.

(3) 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 or 80 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11, 12 or 79 of that Act, it shall take effect from the day on which the change in amount has effect.

(4) Where the change of circumstances is an amendment to these Regulations, it shall take effect from the date on which the amendment to these Regulations comes into force.

(5) Where the change of circumstances is the claimant’s acquisition of a partner, the change shall have effect on the day on which the acquisition takes place.

(6) Where the change of circumstances is the death of a claimant’s partner or their separation, it shall have effect on the day the death or separation occurs.

(7) If two or more changes of circumstances occurring in the same benefit week would, but for this paragraph, take effect in different benefit weeks in accordance with paragraphs (1) to (6) they

shall take effect from the day to which paragraph (2), (3), (5) or (6) above refers, or, where more than one day is concerned, from the earlier day.

Increases of weekly amounts for exceptional circumstances

60. The appropriate authority may modify the provisions of Part VI of these Regulations (amount of benefit) so that, if it considers the circumstances of a person for whom a claim for council tax benefit has been made to be exceptional, the amount of any council tax benefit to be allowed or paid in his case may be increased to an extent which does not cause the total council tax benefit to be allowed or paid to him in any week to exceed—

- (a) the amount

$$\frac{A}{B}$$

to which regulation 51(1) refers (maximum council tax benefit); or

- (b) in the case of an alternative maximum council tax benefit the highest of the amounts specified in respect of a day in Schedule 2 (alternative maximum council tax benefit),

multiplied by 7.

PART VIII

Claims

Who may claim

61.—(1) In the case of a married or unmarried couple or members of a polygamous marriage a claim shall be made by whichever one of them they agree should so claim or, in default of agreement, by such one of them as the appropriate authority shall determine.

(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 receiver 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 curator, judicial factor or other guardian acting or appointed in terms of law; or
- (c) an attorney with a general power or a power to claim or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971(70) or the Enduring Powers of Attorney Act 1985(71) or otherwise,

that receiver, curator, other guardian or attorney, as the case may be, may make a claim 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 paragraph (2) does not apply to him, the appropriate 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 Contributions and Benefits Act 1992 and to receive and deal on his behalf with any sums payable to him.

- (4) Where the appropriate authority has made an appointment under paragraph (3)—

(70) 1971 c. 27.

(71) 1985 c. 29.

- (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 appropriate authority of his intention to do so;
- (c) any such appointment shall terminate when the appropriate authority is notified of the appointment of a person mentioned in paragraph (2).

(5) 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 for the purposes of section 6(1)(g) of the Administration Act 1992, the appropriate authority may if that person so requests in writing, treat him as if he had been appointed by them under paragraph (3).

(6) Anything required by these Regulations to be done by or to any person who is for the time being unable to act may be done by or to the person mentioned in paragraph (2) above or by or to the person appointed or treated as appointed under this regulation and the receipt of any such person so appointed shall be a good discharge to the appropriate authority for any sum paid.

Time and manner in which claims are to be made

62.—(1) Every claim shall be in writing and made on a properly completed form approved for the purpose by the appropriate authority or in such written form as the appropriate authority may accept as sufficient in the circumstances of any particular case or class of cases and be accompanied by or supplemented by such certificates, documents, information and evidence as are required in accordance with regulation 63(1) (evidence and information).

(2) The forms approved for the purpose of claiming shall be provided free of charge by the appropriate authority or such persons as they may authorise or appoint for the purpose.

(3) Each appropriate authority shall notify the Secretary of State of the address to which claims delivered or sent to the appropriate social security office are to be forwarded.

(4) A claim—

- (a) may be sent or delivered to the appropriate social security office where the claimant or his partner is also claiming income support;
- (b) where it has not been sent or delivered to the appropriate social security office, shall be sent or delivered to the designated office;
- (c) sent or delivered to the appropriate social security office shall be forwarded to the appropriate authority within two working days of the date of either the date of determination of the claim for income support or the receipt of the claim at the appropriate social security office, whichever is the later, or as soon as reasonably practicable thereafter.

(5) Subject to paragraph (12) the date on which a claim is made shall be—

- (a) in a case where an award of income support has been made to the claimant or his partner and the claim is made within 4 weeks of the date on which the claim for that income support was received at the appropriate social security office, the first day of entitlement to that income support;
- (b) in a case where the claimant or his partner claimed income support but there is no entitlement to income support, the date on which the claim for council tax benefit is received at the appropriate social security office or the designated office whichever is the earlier;
- (c) in a case where a claimant or his partner is a person on income support and he becomes liable for the first time to pay council tax in respect of the dwelling he occupies as his home, where the claim to the authority is received at the designated office or appropriate social security office within 4 weeks of the date of the change, the date on which the change takes place;

(d) in any other case, the date on which the claim is received at the designated office.

(6) Where a claim received at the designated office has not been made in the manner prescribed in paragraph (1), that claim is for the purposes of these Regulations defective.

(7) Where a claim is defective because—

(a) it was made on the form approved for the purpose but that form is not accepted by the appropriate authority as being in a written form sufficient in the circumstances of the case; or

(b) it was made in writing but not on the form approved for the purpose and the appropriate authority does not accept the claim as being in a written form which is sufficient in the circumstances of the case,

the appropriate authority may, in a case to which sub-paragraph (a) applies, refer the defective claim to the claimant or, in a case to which sub-paragraph (b) applies, supply the claimant with the approved form.

(8) The appropriate authority shall treat a defective claim as if it had been made in the first instance where the approved form referred or sent to the claimant in accordance with paragraph (7) is received at the designated office properly completed within 4 weeks of it having been referred or sent to him, or such longer period as the appropriate authority may consider reasonable.

(9) A claim which is made on an approved form for the time being is, for the purposes of this regulation, properly completed if completed in accordance with the instructions on the form.

(10) Where a person has not yet become liable for council tax to an appropriate authority but it is anticipated that he will become so liable within a period of 8 weeks (the relevant period), he may claim council tax benefit at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority shall treat the claim as having been made on the day on which the liability for the tax arises.

(11) Where, exceptionally, an appropriate authority has not set or imposed its council tax by the beginning of the financial year, if a claim for council tax benefit is properly made or treated as properly made and—

(a) the date on which the claim is made or treated as made is in the period from the 1st April of the current year and ending 4 weeks after the date on which the authority sets or imposes the tax; and

(b) if the tax had been determined, the claimant would have been entitled to council tax benefit either from—

(i) the benefit week in which the 1st April of the current year fell, or

(ii) a benefit week falling after the date specified in head (i) but before the claim was made,

the appropriate authority shall treat the claim as made in the benefit week immediately preceding the benefit week in which such entitlement would have commenced.

(12) Where the claimant is not entitled to council tax benefit in the benefit week immediately following the date of his claim but the appropriate authority is of the opinion that unless there is a change of circumstances he will be entitled to council tax benefit for a period beginning not later than the thirteenth benefit week following the date on which the claim is made, the appropriate authority may treat the claim as made on a date in the benefit week immediately preceding the first benefit week of that period of entitlement and award benefit accordingly.

(13) A person to whom council tax benefit has been granted, or the partner of such a person, may make a claim to the appropriate authority for a further grant of that benefit, for a period beginning immediately after the end of his current benefit period, not more than 13 weeks before the end of that period.

(14) A person may make a further claim not more than 4 weeks after the end of his benefit period or the benefit period of his partner or former partner for a further grant of such benefit, for a period beginning immediately after the end of that benefit period.

(15) The appropriate authority shall invite a person to whom council tax benefit has been granted to make a claim for a further grant of that benefit where either—

- (a) the benefit period ended in circumstances to which regulation 58(a) and (b) refers (end of entitlement to income support); or
- (b) the benefit period is for a period exceeding 16 weeks and is due to end within 8 weeks in accordance with regulation 57(2) to (4) (benefit period) and no such claim has been received in accordance with paragraph (13),

and any claim received following that invitation, if made within 4 weeks of the end of the current benefit period, shall be treated as made for a period beginning immediately after the end of that benefit period in accordance with paragraph (13) or, as the case may be, paragraph (14).

(16) Where the claimant makes a claim in respect of any period before the date on which that claim was, or was treated as, made and he proves that there was good cause for his failure to make that claim throughout the period between any date in that earlier period and the date on which the claim was or was treated as made, his claim shall, subject to section 1(2) of the Administration Act 1992 (12 months limit on entitlement before the date of claim), be treated as made on the first day of that earlier period from which he can prove good cause.

Evidence and information

63.—(1) A person who makes a claim shall furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be reasonably required by the appropriate authority in order to determine that person's entitlement to council tax benefit, and shall do so within 4 weeks of being required to do so or such longer period as the appropriate authority may consider reasonable, but nothing in this regulation shall require a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (3) applies.

(2) Where a request is made under paragraph (1), the appropriate authority shall—

- (a) inform the claimant of his duty under regulation 65 (duty to notify change of circumstances) to notify the designated office of any change of circumstances; and
- (b) without prejudice to the extent of the duty owed under regulation 65, 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 is to be notified.

(3) This paragraph applies to any of the following payments—

- (a) a payment which is—
 - (i) disregarded under paragraph 22 (income in kind) of Schedule 4 or paragraph 32 of Schedule 5 (payments in kind made by a charity or under certain trusts), and
 - (ii) made under the Trusts, or the Fund;
- (b) a payment which is disregarded under paragraph 35 of Schedule 4 or under paragraph 23 of Schedule 5 (payments made under certain trusts), other than a payment under the Independent Living Fund.

Amendment and withdrawal of claim

64.—(1) A person who has made a claim may amend it at any time before a determination has been made on it, by a notice in writing delivered or sent to the designated office and any claim so amended shall be treated as if it had been amended in the first instance.

(2) A person who has made a claim may withdraw it at any time before a determination has been made on it, by notice to the designated office and any such notice of withdrawal shall have effect when it is received.

Duty to notify changes of circumstances

65.—(1) Subject to paragraphs (2) and (4), if at any time between the making of a claim and its determination, or during the benefit period, there is a change of circumstances which the claimant or any person by whom or on whose behalf sums payable by way of council tax benefit are receivable might reasonably be expected to know might affect the claimant's right to, the amount of, or the receipt of council tax benefit, that person shall be under a duty to notify that change of circumstances by giving notice in writing to the designated office.

(2) The duty imposed on a person by paragraph (1) does not extend to notifying changes—

- (a) in the amount of a council tax payable to the appropriate authority;
- (b) in the age of the claimant or that of any member of his family;
- (c) in these Regulations; or
- (d) in the case of a claimant on income support, any changes in circumstances which affect the amount of income support but not the amount of council tax benefit to which he is entitled, other than the cessation of that entitlement to income support.

(3) Notwithstanding paragraph (2)(b) or (d) a claimant shall be required by paragraph (1) to notify the designated office 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 ceases to be a child or young person.

(4) Where the amount of a claimant's council tax benefit is the alternative maximum council tax benefit in his case, the claimant shall be under a duty to give written notice to the designated office of changes which occur in the number of adults in the dwelling or in their total gross incomes which might reasonably be expected to change his entitlement to that council tax benefit and where any such adult ceases to be in receipt of income support the date when this occurs.

PART IX

Determination of Questions

Who is to make a determination

66.—(1) Unless provided otherwise by these Regulations, any matter required to be determined under these Regulations shall be determined in the first instance by the appropriate authority.

(2) An authority shall be under no duty to determine a claim—

- (a) where the claim has not been made in accordance with regulation 62(1) (time and manner in which claims are to be made) or treated as so made by virtue of regulation 61(8);
- (b) where the claimant has failed to satisfy the provisions of regulation 63 (evidence and information);
- (c) where the claim has been or is treated as withdrawn under regulation 64 (amendment and withdrawal of claim);
- (d) made more than 13 benefit weeks prior to the expiry of the claimant's current benefit period.

(3) Every claim shall be determined by the appropriate authority within 14 days of the provisions of regulations 62 and 63 being satisfied (time and manner for making claims and evidence and information required) or as soon as reasonably practicable thereafter.

Notification of determinations

67.—(1) Except in cases to which paragraphs (a) and (b) of regulation 83 (excess benefit in consequence of a reduction of an appropriate authority’s council tax) refer, an Authority shall notify in writing any person affected by a determination made by it under these Regulations—

- (a) in the case of a determination on a claim, forthwith or as soon as reasonably practicable thereafter;
- (b) in any other case, within 14 days of that determination or as soon as reasonably practicable thereafter,

and every notification shall include a statement as to the matters set out in Schedule 6.

(2) A person to whom an authority sends or delivers a notification of determination may request in writing the authority to provide a written statement setting out the reasons as to its determination of any matter set out in the notice.

(3) The written statement referred to in paragraph (2) shall be sent to the person requesting it within 14 days or as soon as is reasonably practicable thereafter.

Time and manner of making notifications, requests or representations

68.—(1) Any notice or other document that is to be given or sent to an authority shall be deemed to have been given or sent on the day it is received at the designated office.

(2) Any notice or other document that is to be given or sent by an authority to any person shall be deemed to have been given or sent, if sent by post, to that person’s last known or notified address, on the date it was posted.

(3) The times specified by regulations 69(2) (review of determinations), and 70 (further review of determinations) for making representations or a request for a further review may be extended for special reasons, by the appropriate authority or where relevant a Review Board, even though the time specified may have already expired.

(4) Any application for an extension of time shall be in writing, shall be sent or delivered to the designated office and shall be determined by the appropriate authority or where relevant decided by a Review Board.

(5) There shall be no review or further review of a determination or decision of a Review Board under paragraph (3) or (4).

Review of determinations

69.—(1) Any determination or decision of a Review Board may be reviewed at any time by the appropriate authority if—

- (a) there has been any relevant change of circumstances since the determination or decision was made; or
- (b) the authority is satisfied and, in the case of a decision, satisfied by fresh evidence, that the determination or decision was made in ignorance of, or was based on a mistake as to, some material fact; or
- (c) except in the case of a decision made by a Review Board, it is satisfied that the determination was based on a mistake as to the law.

(2) Notwithstanding paragraph (1), if a person makes written representations to an authority concerning a determination which it makes in relation to him within 6 weeks of the date of notification to him of the determination, the authority shall review the determination in the light of those representations within 14 days of receiving the representations or as soon as reasonably practicable thereafter.

(3) Subject to paragraph (5), where a determination is revised on review, the determination as revised shall have effect—

- (a) in a case to which paragraph (1)(a) applies, from the date on which the relevant change of circumstances is to have effect, in accordance with regulation 59 (date on which change of circumstances is to take effect);
- (b) in a case to which paragraph (1)(b) or (c) or (2) applies, in place of the original determination;
- (c) in the case of a determination under regulation 62(16) (back dating of late claims), not to allow a claim to be treated as made on a date earlier than it was made, which is revised in favour of the claimant, from the date on which in accordance with regulation 62(16) that claim is treated as made.

(4) For the purposes of calculating the period of 6 weeks mentioned in paragraph (2) no account shall be taken of any period beginning with the receipt by an authority of a request for a statement under regulation 67(2) (notifications of determinations) and ending with the provision to that person of that statement.

(5) Except as provided by paragraph (3)(c) a determination or decision shall not be revised upon review so as to make council tax benefit payable or to increase the amount of benefit payable in respect of any period which is more than 52 weeks before—

- (a) where written representations were made in accordance with paragraph (2), the date on which those written representations were made; or
- (b) in any other case, the date on which the determination was revised.

(6) Notwithstanding paragraph (1)(a), a determination or a decision shall not be reviewed where the change of circumstances is the repayment of a loan to which regulation 47 (treatment of student loans) applies.

(7) Regulations 67 to 69 shall apply to the revision of any determination as they apply to a determination.

Further review of determinations

70.—(1) A person who has made representations under regulation 69(2) (review of determinations) may give or send to the appropriate authority written notice requesting a further review of the determination within 4 weeks of the date on which the determination on those representations was sent to him.

(2) The notice given under paragraph (1) shall set out the grounds on which a further review is requested.

(3) Subject to paragraph (4), the further review shall be conducted by a Review Board appointed by the appropriate authority and constituted in accordance with Schedule 7.

(4) Notwithstanding paragraph (3) where, under this regulation, a person has requested a further review of a determination and has also, in connection with a claim for housing benefit, requested a further review of a determination relating to housing benefit in accordance with regulation 81 of the Housing Benefit (General) Regulations 1987 (further reviews of determinations with respect to housing benefit), a Review Board appointed in accordance with that regulation may also be appointed under this regulation to conduct a further review of the determination in respect of council tax

benefit at the same time, provided that the appropriate authority and the person who has made the representation against each determination and any affected partner agree to this course.

(5) Notice of any hearing by the Review Board shall be given by the Board to the persons concerned in accordance with regulation 71(3) (10 days notice of hearing) unless all such persons agree that such notice may be dispensed with.

Procedure on further review

71.—(1) Within 6 weeks of receipt by an authority of a notice under regulation 70(1) (further review of determinations) requesting a further review or, if that is not reasonably practicable as soon as possible thereafter, the Review Board shall hold an oral hearing in order to conduct a further review.

(2) Subject to the provisions of these Regulations—

- (a) the procedure in connection with a further review shall be such as the Chairman of the Review Board shall determine;
- (b) any person affected may make representations in writing in connection with the further review and such representations shall be considered by the Review Board;
- (c) at the hearing any person affected has the right—
 - (i) to be heard, and may be accompanied and may be represented by another person whether that person is professionally qualified or not, and for the purposes of the proceedings at the hearing any representative shall have the rights and powers to which any person affected is entitled under these Regulations,
 - (ii) to call persons to give evidence, and
 - (iii) to put questions to any person who gives evidence;
- (d) the Review Board may call for, receive or hear representations and evidence from any person present as it considers appropriate.

(3) Reasonable notice (being not less than 10 days beginning on the day on which notice is given and ending on the day before the hearing of the further review) of the time and place of the oral hearing before the Review Board shall be given to any person affected, and if such notice has not been given the hearing may proceed only with the consent of every person affected or his representative.

(4) If any person affected should fail to appear at the hearing, notice having been given to him in accordance with paragraph (3), the Review Board may, having regard to all the circumstances including any explanations offered for the absence, proceed with the hearing notwithstanding his absence, or give such directions with a view to the conduct of the further review as it may think proper.

(5) Any person affected to whom notice has been given under paragraph (3) may apply in writing to the Chairman requesting a postponement of the hearing or withdrawing his application for a further review at any time before the decision on further review is given and either before or after the hearing has begun, and the Chairman may grant or refuse the application as he thinks fit.

(6) A hearing may be adjourned by the Review Board at any time during the hearing on the application of any person affected or of its own motion, and if a hearing is adjourned part heard and after the adjournment the Review Board is differently constituted, otherwise than through the operation on that occasion of paragraph (7), the proceedings shall be by way of a complete rehearing of the case.

(7) Any hearing may, with the consent of every person affected or his representative but not otherwise, be proceeded with in the absence of any member of the Review Board provided that at least two members are present and one member is present or acts as the Chairman of the Board.

(8) The decision of the majority of the Review Board shall be the decision of the Board, and where the Board consists of an even number, the Chairman shall have a second or casting vote.

(9) An authority may pay travelling expenses in respect of attendance at the hearing to any person affected and to one other person representing or accompanying him at the hearing.

Decisions upon further review

72.—(1) Upon further review the Review Board shall decide whether to confirm or revise the determination of the appropriate authority and, where the determination has been reviewed and revised under regulation 69 (review of determinations), it shall decide whether to confirm or revise the determination so revised.

(2) In reaching its decision the Review Board shall apply the provisions of these Regulations as though any duty imposed on, or power or discretion conferred on, an authority were imposed or conferred upon the Review Board.

(3) In its application to a decision of a Review Board, the 52 week period referred to in regulation 69(5) (review of determinations) shall be calculated from the date that the appropriate authority either confirmed or revised its determination on review.

(4) The Chairman of the Review Board shall—

- (a) record in writing all its decisions; and
- (b) include in the record of every decision a statement of the reasons for such decisions and of its findings on questions of fact material thereto.

(5) Within 7 days of the Review Board's decision or, if that is not reasonably practicable, as soon as possible thereafter, a copy of the record of that decision made in accordance with this regulation shall be given or sent to every person affected.

Effect of revising a determination

73. Where a Review Board has decided that a determination or, as the case may be, a revised determination of an authority shall be revised, the authority shall alter its determination or, as the case may be, revised determination in accordance with that decision with effect from the date of determination or, as the case may be, revised determination.

Correction of accidental errors in determinations and decisions

74.—(1) Subject to regulation 76 (provisions common to regulations 74 and 75), accidental errors in any determination or record of a decision may at any time be corrected by the determining authority who gave the determination or decision or by an authority of like status.

(2) A correction to a determination or to the record of a decision shall be deemed to be part of that determination or of that record and written notice of it shall be given as soon as practicable to any person affected.

Setting aside of determinations and decisions on certain grounds

75.—(1) Subject to regulation 76 (provisions common to regulations 74 and 75), on an application made by any person affected by the determination or decision, a determination or decision may be set aside by the determining authority which gave the determination or decision or by an authority of like status, in a case where it appears just to set the determination or decision aside on the grounds that—

- (a) a document relating to the matters relevant to the determination or decision was not sent to, or was not received at an appropriate time by, any person affected by the determination

or decision, his representative, or the determining authority which gave the determination or decision; or

- (b) in the case of a hearing before the Review Board, any person affected or his representative was not present; or
- (c) the interests of justice so require.

(2) An application under this regulation shall be made in writing and sent or delivered to the determining authority which gave the determination or decision, within 13 weeks of the day on which notice of that determination or decision was given.

(3) Where an application to set aside a decision of the Review Board is entertained under paragraph (1), any person affected shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

(4) Notice in writing of a determination or decision on an application to set aside a determination or decision shall be given to any person affected, as soon as may be practicable, and the notice shall contain a statement giving reasons for the determination or decision.

(5) For the purposes of determining under these Regulations an application to set aside a determination or decision there shall be disregarded regulation 68(2) (time and manner of making notifications, requests or representations) and any provision in any enactment or instrument to the effect that any notice or document required or authorised to be given or sent to any person shall be deemed to have been given or sent if it was sent by post to that person's last known or notified address.

Provisions common to regulations 74 and 75

76.—(1) In regulations 74 and 75—

“authority of like status” means a Review Board of different composition to that giving the decision where it is inexpedient for that same Review Board to correct or set aside its decision;

“determining authority” means an appropriate authority or a Review Board.

(2) In calculating the time specified in regulations 69(2) (review of determinations), 70(1) (further review of determinations), and 75(2) (setting aside of determinations and decisions on certain grounds) there shall be disregarded any day before the day on which notice was given of a correction to a determination or to the record of a decision under regulation 74 (correction of accidental errors in determinations and decisions) or a refusal to make such a correction, or on which notice is given of a determination or decision that a determination or decision shall not be set aside following an application made under regulation 75 as the case may be.

(3) There shall be no review or further review of a correction made under regulation 74 or a refusal to make such a correction or against a determination or decision given under regulation 75.

PART X

Awards or payments of benefit

Time and manner of granting council tax benefit

77.—(1) Subject to regulations 80, 81 and 82 (withholding of benefit, payments on death and offsetting), where a person is entitled to council tax benefit in respect of his liability for an appropriate authority's council tax as it has effect in respect of the relevant or any subsequent chargeable financial year, the appropriate authority shall discharge his entitlement—

- (a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992(72) (the English and Welsh Regulations) or regulation 20(2) of the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992(73) (the Scottish Regulations) refers; or
 - (b) where—
 - (i) such a reduction is not possible, or
 - (ii) such a reduction would be insufficient to discharge the entitlement to council tax benefit, or
 - (iii) the person entitled to council tax benefit is jointly and severally liable for the tax and the appropriate authority determines that such a reduction would be inappropriate, by making payments to him of the benefit to which he is entitled, rounded where necessary to the nearest penny.
- (2) The appropriate authority, shall notify the person entitled to council tax benefit of the amount of that benefit and how his entitlement is to be discharged in pursuance of paragraph (1).
- (3) In a case to which paragraph (1)(b) refers—
- (a) if the amount of the council tax for which he remains liable in respect of the relevant chargeable financial year, after any reduction to which paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to council tax benefit in respect thereof to be discharged in that year, upon the final instalment of that tax becoming due any outstanding benefit—
 - (i) shall be paid to that person if he so requires; or
 - (ii) in any other case shall (as the appropriate authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority’s council tax as it has effect for any subsequent year;
 - (b) if that person has ceased to be liable for the appropriate authority’s council tax and has discharged the liability for that tax, the outstanding balance (if any) of the council tax benefit in respect thereof shall be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter;
 - (c) in any other case, the council tax benefit shall be paid within 14 days of the receipt of the claim at the designated office or, if that is not reasonably practicable, as soon as practicable thereafter.
- (4) For the purposes of this regulation “instalment” means any instalment of an appropriate authority’s council tax to which regulation 19 of either the English and Welsh Regulations or as the case may be the Scottish Regulations refers (council tax payments).

Person to whom benefit is to be paid

78.—(1) Subject to regulation 81 (payment on death) and paragraph (2), any payment of council tax benefit under regulation 77(1)(b) shall be made to that person.

(2) Where a person other than a person who is entitled to council tax benefit made the claim and that first person is a person acting pursuant to an appointment under regulation 61(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of regulation 61(5), benefit may be paid to that person.

(72) S.I. 1992/613.

(73) S.I. 1992/1332.

Shortfall in benefit

79.—(1) Except in cases to which paragraph (2) refers, where, on the review of a determination or a decision of a review board allowing council tax benefit to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the appropriate authority shall either—

- (a) make good any shortfall in benefit which is due to that person, by reducing so far as possible the next and any subsequent payments he is liable to make in respect of the council tax of the authority concerned as it has effect for the relevant chargeable financial year until that shortfall is made good; or
- (b) where this is not possible or the person concerned so requests, pay any shortfall in benefit due to that person within 14 days of the decision on review being made or if that is not reasonably practicable, as soon as possible afterwards.

(2) A shortfall in benefit need not be paid in any case to the extent that there is due from the person concerned to the appropriate authority any recoverable excess benefit to which regulation 84(1) refers.

Withholding of benefit

80.—(1) Where it appears to an appropriate authority that a question has arisen in relation to a person's entitlement to council tax benefit or to the allowance or payment of such benefit it may withhold the allowance or payment of the benefit in whole or in part pending the determination of that question on review under regulation 69 (review of determinations).

(2) Where it appears to an authority that a question has arisen whether any amount allowed or paid to a person by way of, or in connection with, a claim for council tax benefit, constitutes excess benefits for the purposes of section 76 of the Administration Act 1992(74) or Part XI of these Regulations (excess benefit) it may withhold any allowance or payment of arrears of benefit to that person, in whole or in part, pending the determination of that question.

(3) Upon determination of a question to which paragraph (1) or (2) refers, any benefit withheld under those paragraphs shall be—

- (a) allowed to the person concerned by reducing, so far as possible, the next and any subsequent payments he is liable to make in respect of the council tax of the authority concerned as it has effect for the relevant chargeable financial year, until the benefit withheld is made good; or
- (b) where this is not possible or the person concerned so requests, paid to that person within 14 days of the determination of that question or, if this is not reasonably practicable, as soon as possible afterwards, except to the extent that there was no entitlement to that benefit or recoverable excess benefit remain due from the person from whom the benefit was withheld.

Payment on death of the person entitled

81.—(1) Where the person entitled to any council tax benefit has died and it is not possible to award any council tax benefit which is due in the form of a reduction of the council tax for which he was liable, the appropriate authority shall make payment either to his personal representative or, where there is none, his next of kin if aged 16 or over.

(74) Section 76 was amended to apply to council tax benefit by the Local Government Finance Act 1992 (c. 14) Schedule 9 paragraph 15.

(2) For the purposes of paragraph (1), “next of kin” means in England and Wales the persons who would take beneficially on an intestacy and in Scotland the person entitled to the moveable estate on intestacy.

(3) A payment under paragraph (1) may not be made unless the personal representative or the next of kin, as the case may be, makes written application for the payment of any sum of benefit to which the deceased was entitled, and such written application is sent to or delivered to the appropriate authority at its designated office within 12 months of the deceased’s death or such longer period as the authority may allow in any particular case.

(4) The authority may dispense with strict proof of title of any person claiming under paragraph (3) and the receipt of such a person shall be a good discharge to the authority for any sum so paid.

Offsetting

82.—(1) Where a person has been allowed or paid a sum of council tax benefit under a determination which is subsequently revised upon review or further review, any sum allowed or paid in respect of a period covered by the subsequent determination shall be offset against arrears of entitlement under the subsequent determination except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

(2) No amount may be offset under paragraph (1) which has been determined to be excess benefit within the meaning of regulation 83 (meaning of excess benefit).

PART XI

Excess benefit

Meaning of excess benefit

83. In this Part “excess benefit” means any amount which has been allowed by way of council tax benefit and to which there was no entitlement under these Regulations (whether on initial determination or as subsequently revised on review or further review) 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 or 80 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 or 60 or, in Scotland, section 94 of the 1992 Act (substituted amounts) of a lesser amount for an amount of council tax previously set by the appropriate authority under section 30 or, in Scotland section 93 of that Act (amount set for council tax).

Recoverable excess benefit

84.—(1) Any excess benefit, except benefit to which paragraph (2) applies, shall be recoverable.

(2) Subject to paragraphs (4) and (5) and excepting any excess benefit arising in consequence of a reduction in tax or substitution to which regulation 83 refers, this paragraph applies to excess benefit allowed in consequence of an official error, where the claimant or a person acting on his behalf or any other person to whom the excess benefit is allowed could not, at the time the benefit

was allowed or upon the receipt of any notice relating to the allowance of that benefit, reasonably have been expected to realise that it was excess benefit.

(3) In paragraph (2), “excess benefit allowed in consequence of an official error” means excess benefit in consequence of a mistake made or something done or omitted to be done by the appropriate authority or by an officer or person acting for that authority or by an officer of the Department of Social Security or the Department of Employment acting as such where the claimant, a person acting on his behalf or any other person to whom the payment is allowed did not cause or materially contribute to that mistake, act or omission.

(4) Paragraph (2) shall not apply with respect to excess benefit to which regulation 83(a) and (b) refers.

(5) Where in consequence of an official error a person has been awarded excess benefit, upon the award being reviewed any excess benefit which remains credited to him by the appropriate authority in respect of a period after the date of the review, shall be recoverable.

Authority by which recovery may be made

85. The appropriate authority which allowed the recoverable excess benefit may recover it.

Person from whom recovery may be sought

86.—(1) Subject to paragraph (2), recoverable excess benefit shall be due from the claimant or the person to whom the excess benefit was allowed.

(2) Where recoverable excess benefit is allowed to a claimant who has one or more partners, recovery of the excess may be made by deduction from any council tax benefit allowed to a partner, provided the claimant and that partner were members of the same household both at the time the excess benefit is allowed and when the deduction is made.

Methods of recovery

87.—(1) Without prejudice to any other method of recovery an appropriate authority may recover any recoverable excess benefit due from any person referred to in regulation 86 (person from whom recovery may be sought) by any of the methods specified in paragraphs (2) and (3) or any combination of those methods.

(2) Excess benefit may be recovered either—

- (a) by payment by or on behalf of the person to whom regulation 86(1) refers, or
- (b) by an addition being made by the appropriate authority to any amount payable in respect of the council tax concerned.

(3) Where recoverable excess benefit due from any person cannot be recovered by either of the methods specified in paragraph (2), the appropriate authority may request the Secretary of State to recover the outstanding excess from the benefits prescribed in regulation 91 in accordance with the provisions of that regulation.

Further provision as to recovery of excess benefit

88. In addition to the methods for recovery of excess benefit which are specified in regulation 87, 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 benefit is due.

Diminution of capital

89.—(1) Where in the case of recoverable excess benefit, in consequence of a misrepresentation or failure to disclose a material fact (in either case whether fraudulent or otherwise) as to a person's capital, or an error, other than one to which regulation 84(2) (effect of official error) refers, as to the amount of a person's capital, the excess benefit was in respect of a period ("the excess benefit period") of more than 13 benefit weeks, the appropriate authority shall, for the purpose only of calculating the amount of the excess—

- (a) at the end of the first 13 benefit weeks of the excess benefit period, treat the amount of the capital as having been reduced by the amount of excess council tax benefit allowed during those 13 weeks;
- (b) at the end of each subsequent period of 13 benefit weeks, if any, of the excess benefit period, treat the amount of that capital as having been further reduced by the amount of excess council tax benefit allowed during the immediately preceding 13 benefit weeks.

(2) Capital shall not be treated as reduced over any period other than 13 benefit weeks or in any circumstances other than those, for which paragraph (1) provides.

Sums to be deducted in calculating recoverable excess benefit

90. In calculating the amount of recoverable excess benefit, the appropriate authority—

- (a) if it determines that a lesser amount was properly allowable in respect of the whole or part of the excess benefit period, shall deduct that amount; and
- (b) may deduct so much of any payment of council tax in respect of the excess benefit period which exceeds the amount, if any, which the claimant was liable to pay for that period under the original erroneous determination.

Recovery of excess benefit from prescribed benefits

91.—(1) For the purposes of section 76(3)(c) of the Administration Act 1992 (deduction of excess council tax benefit from prescribed benefits), the benefits prescribed by this regulation are—

- (a) any benefit under the Contributions and Benefits Act 1992, except guardian's allowance;
- (b) any benefit payable under the legislation of any member State, other than the United Kingdom, concerning the branches of social security mentioned in article 4(1) of Regulation (EEC) No. 1408/71(75) on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, whether or not the benefit has been acquired by virtue of the provisions of that Regulation.

(2) Where the Secretary of State is satisfied that—

- (a) recoverable excess benefit has been allowed in consequence of a misrepresentation of or failure to disclose a material fact (in either case whether fraudulent or otherwise), by a claimant or any other person to whom council tax benefit has been allowed; and
- (b) the person who misrepresented that fact or failed to disclose it is receiving a sufficient amount of one or more of the benefits prescribed in paragraph (1) to enable deductions to be made for the recovery of the excess,

he shall, if requested to do so by an appropriate authority under regulation 87 (methods of recovery) recover the excess by deduction from any of those benefits.

(75) O.J. No. L149, 5.7.1971; Regulations No. 1408/71 and No. 574/72 were restated in amended form in Regulation No. 2001/83 (O.J. No. L230, 22.8.1983), and further amended by Council Regulation (EEC) No. 1661/85 (O.J. No. L160, 20.6.1985) and Commission Regulation (EEC) No. 513/86 (O.J. No. L57, 28.2.1986).

PART XII

Information

Information to be supplied by the Secretary of State to an appropriate authority

92. For the purposes of section 128(1) of the Administration Act 1992⁽⁷⁶⁾ (information which may be supplied by the Secretary of State where required by appropriate authorities in connection with the exercise of their functions relating to council tax benefit), the information prescribed by this regulation is—

- (a) the name, date of birth and address of any person who is in receipt of income support and of any partner he may have;
- (b) the date on which a claim for income support under Part VII of the Contributions and Benefits Act 1992 by a person was received by the appropriate social security office;
- (c) that a person's claim for income support has been disallowed;
- (d) where a person's claim for income support has been disallowed, the reason for the disallowance;
- (e) where an award of income support has been made to a person, the first day of entitlement to that benefit;
- (f) the date on which a person's entitlement to income support ended or is to end and the date on which the payment of income support ceased or is to cease;
- (g) where a person's entitlement to income support ends, the reason for it ending;
- (h) the national insurance number in respect of any person who is in receipt of income support and of any partner he may have;
- (i) where a person or any partner of his is in receipt of income support and changes his residence from the area of one appropriate authority to that of another, the date on which a claim for council tax benefit by that person or his partner is received by the appropriate social security office;
- (j) where—
 - (i) a person in receipt of income support or any partner of his reports to an appropriate DSS office that another person is residing or has ceased to reside with him, and
 - (ii) that other person is a non-dependant,the name and date of birth of that other person;
- (k) any information not referred to in paragraphs (a) to (j) above which is required for the purpose of—
 - (i) the calculation and recovery of excess council tax benefit,
 - (ii) the investigation and prevention of offences relating to council tax benefit,
 - (iii) any proceedings for an offence relating to council tax benefit.

Information to be supplied by an appropriate authority to the Secretary of State

93. For the purposes of section 128(2) of the Administration Act 1992 (information which is to be supplied by an appropriate authority where required by the Secretary of State in connection with any of his functions under that Act or the Contributions and Benefits Act 1992), the information prescribed by this regulation is—

⁽⁷⁶⁾ Section 128 of the Administration Act 1992 was amended to apply to council tax benefit by the Local Government Finance Act 1992 (c. 14) Schedule 9 paragraph 18.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) that a claim for council tax benefit has been disallowed;
- (b) the date on which a person's entitlement to council tax benefit ended or is to end;
- (c) any information not referred to in paragraphs (a) and (b) above, which is required for the purpose of—
 - (i) the calculation and recovery of overpayments of benefits paid under the Contributions and Benefits Act 1992,
 - (ii) the investigation and prevention of offences relating to benefits under that Act,
 - (iii) any proceedings for offences relating to benefits under that Act.

Signed by authority of the Secretary of State for Social Security.

20th July 1992

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

SCHEDULE 1

Regulations 8 and 9

APPLICABLE AMOUNTS

PART I

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 regulations 8(a) and 9(a) and (b)—

(1) Person or Couple	(2) Amount
(1) Single claimant aged—	
(a) not less than 18 but less than 25;	
(b) not less than 25.	
(a) (1) (a) £33.60	
(b) £42.45	
(2) Lone parent	
(a) (2) (a) £42.45	
(3) Couple	
(a) (3) (a) £66.60	

2. The amounts specified in column (2) below in respect of each person specified in column (1) shall be the amounts specified for the purposes of regulations 8(b) and 9(c)—

(1) Child or Young Person	(2) Amount
Person aged—	
(a) less than 11;	
(a) (a) £14.55	
(b) (b) not less than 11 but less than 16;	
(b) (b) £21.40	
(c) (c) not less than 16 but less than 18;	
(c) (c) £25.55	
(d) (d) not less than 18.	
(d) (d) £33.60	

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PART II

FAMILY PREMIUM

3. The amount for the purposes of regulations 8(c) and 9(d) in respect of a family of which at least one member is a child or young person shall be £9.30.

PART III

PREMIUMS

4. Except as provided in paragraph 5, the premiums specified in Part IV of this Schedule shall, for the purposes of regulations 8(d) and 9(e), be applicable to a claimant who satisfies the condition specified in paragraphs 8 to 16 in respect of that premium.

5. Subject to paragraph 6, where a claimant 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.

6.—(1) The severe disability premium to which paragraph 14 applies may be applicable in addition to any other premium which may apply under this Schedule.

(2) The disabled child premium and the carer premium to which paragraphs 15 and 16 respectively apply may be applicable in addition to any other premium which may apply under this Schedule.

7.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to a claimant 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(77) 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 under section 2 of the Employment and Training Act 1973(78) or section 2 of the Enterprise and New Town (Scotland) Act 1990(79) for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 16, a person shall be treated as being in receipt of invalid care 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 Contributions and Benefits Act 1992.

Lone Parent Premium

8. The condition is that the claimant is a lone parent.

Pensioner Premium for persons under 75

9. The condition is that the claimant—

(77) S.I. 1979/597.

(78) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19).

(79) 1990 c. 35.

- (a) is a single claimant or lone parent aged not less than 60 but less than 75; or
- (b) has a partner and is, or his partner is, aged not less than 60 but less than 75.

Pensioner Premium for persons 75 and over

10. The condition is that the claimant—

- (a) is a single claimant or lone parent aged not less than 75 but less than 80; or
- (b) has a partner and is, or his partner is, aged not less than 75 but less than 80.

Higher Pensioner Premium

11.—(1) Where the claimant is a single claimant or a lone parent, the condition is that—

- (a) he is aged not less than 80; or
- (b) he is aged less than 80 but not less than 60, and
 - (i) the additional condition specified in paragraph 13(1)(a) is satisfied, or
 - (ii) the claimant was in receipt of council tax benefit and the disability premium was applicable to him in respect of a benefit week within 8 weeks of his 60th birthday and he has, subject to sub-paragraph (3), remained continuously in receipt of council tax benefit since attaining that age.

(2) Where the claimant has a partner, the condition is that—

- (a) he or his partner is aged not less than 80; or
- (b) he or his partner is aged less than 80 but not less than 60 and either—
 - (i) the additional condition specified in paragraph 13(1)(a) is satisfied, or
 - (ii) the claimant was in receipt of council tax benefit and the disability premium was applicable to him in respect of a benefit week within 8 weeks of his 60th birthday and he has, subject to sub-paragraph (3), remained continuously in receipt of council tax benefit since attaining that age.

(3) For the purposes of this paragraph and paragraph 13—

- (a) once the higher pensioner premium is applicable to a claimant, if he then ceases, for a period of 8 weeks or less, to be entitled to council tax benefit, he shall, on becoming reentitled to council tax benefit, thereafter be treated as having been continuously entitled to that benefit;
- (b) where sub-paragraphs (1)(b)(ii) and (2)(b)(ii) apply, if a claimant ceases to be entitled to council tax benefit for a period not exceeding 8 weeks which includes his 60th birthday, he shall, on becoming re-entitled to council tax benefit, thereafter be treated as having been continuously entitled to that benefit;
- (c) where the claimant or his partner—
 - (i) was entitled to housing benefit at any time in the period of 8 weeks before becoming entitled or re-entitled to council tax benefit, and
 - (ii) satisfied the conditions in respect of higher pensioner premium under paragraphs 10 and 12 of Schedule 2 to the Housing Benefit (General) Regulations 1987,

for the purpose of establishing entitlement or re-entitlement for council tax benefit, he or his partner shall be treated as satisfying the equivalent conditions for higher pensioner premium under this paragraph and paragraph 13.

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Disability Premium

12. The condition is that—

- (a) where the claimant is a single claimant or lone parent, he is aged less than 60 and the additional condition specified in paragraph 13 is satisfied; or
- (b) where the claimant has a partner, either—
 - (i) the claimant is aged less than 60 and the additional condition specified in paragraph 13(1)(a) or (b) is satisfied by him, or
 - (ii) his partner is aged less than 60 and the additional condition specified in paragraph 13(1)(a) is satisfied by his partner.

Additional Condition for the Higher Pensioner and Disability Premiums

13.—(1) Subject to sub-paragraph (2) and paragraph 7, the additional condition referred to in paragraphs 11 and 12 is that either—

- (a) the claimant 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, disability working allowance, mobility supplement, an invalidity pension under section 33 of the Contributions and Benefits Act 1992 or severe disablement allowance under section 68 of that Act but, in the case of invalidity pension or severe disablement allowance, only where it is paid in respect of him, or
 - (ii) was in receipt of invalidity pension under section 33 of the Contributions and Benefits Act 1992 when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the claimant has since remained continuously entitled to community charge benefit or, as the case may be, council tax benefit and, if the invalidity pension was payable to his partner, the partner is still a member of the family, or
 - (iii) except where paragraph (1)(a), (b), (c)(ii) or (d)(ii) of regulation 10 (patients) applies, was in receipt of attendance allowance, or disability living allowance but payment of the benefit has been suspended in accordance with regulations made under section 113(2) of the Contributions and Benefits Act 1992, or
 - (iv) 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⁽⁸⁰⁾ (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978⁽⁸¹⁾ (provision of services) or receives payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to that 1977 Act (additional provisions as to vehicles) or under that section 46, or
 - (v) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948⁽⁸²⁾ (welfare services) or has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a regional or islands council; or

⁽⁸⁰⁾ 1977 c. 49; section 5(2) was amended and sub-section (2A) added by the Public Health Laboratory Services Act 1979 (c. 23) section 1 and sub-section (2B) added by section 9 of the Health and Social Security Act 1984 (c. 48).

⁽⁸¹⁾ 1978 c. 29.

⁽⁸²⁾ 1948 c. 29; section 29 was amended by the National Assistance (Amendment) Act 1959 (c. 30) section 1(2); the Mental Health (Scotland) Act 1960 (c. 61) sections 113 and 114 and Schedule 4; the Local Government Act 1972 (c. 70) Schedule 23 paragraph 2; the Employment and Training Act 1973 (c. 50) Schedule 3 paragraph 3; the National Health Service Act 1977 (c. 49) Schedule 15 paragraph 6 and the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) Schedule 10 Part 1.

- (b) the circumstances of the claimant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (b) or, if he was in Northern Ireland for the whole or part of that period, within one or more comparable Northern Irish provisions.
- (2) For the purposes of sub-paragraph (1)(a)(v), 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 higher pensioner premium or the disability premium is applicable to a claimant 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 for the purposes of the provisions specified in that provision 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)(a)(ii) and (iii), once the higher pensioner premium is applicable to the claimant by virtue of his satisfying the additional condition specified in those provisions, if he then ceases, for a period of 8 weeks or less, to be entitled to council tax benefit, he shall on again becoming so entitled to council tax benefit, immediately thereafter be treated as satisfying the additional condition in sub-paragraph (1)(a)(ii) and (iii).
- (5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant 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⁽⁸³⁾ or for any period during which he is in receipt of a training allowance.
- (6) For the purposes of sub-paragraph (1)(b), the circumstances of a claimant fall within this sub-paragraph if—
- (a) he provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976⁽⁸⁴⁾ (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 31, 33 or 68 of the Contributions and Benefits Act 1992, provided that an adjudication officer has not determined he is not incapable of work, or
 - (b) he is in receipt of statutory sick pay within the meaning of Part XI of the Contributions and Benefits Act 1992.
- (7) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant 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.

Severe Disability Premium

- 14.**—(1) The condition is that the claimant is a severely disabled person.
- (2) For the purposes of sub-paragraph (1), a claimant shall be treated as being a severely disabled person if, and only if—
- (a) in the case of a single claimant or lone parent—
 - (i) he is in receipt of attendance allowance, or the care component of disability living allowance by at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act 1992, and

⁽⁸³⁾ 1990 c. 35.

⁽⁸⁴⁾ S.I. 1976/615; relevant amending instruments are S.I. 1982/699 and 1987/409.

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- (ii) subject to sub-paragraph (3), he has no non-dependants aged 18 or over residing with him, and
 - (iii) an invalid care allowance under section 70 of the Contributions and Benefits Act 1992 is not in payment to anyone in respect of caring for him;
- (b) in the case of a claimant who has a partner—
- (i) the claimant is in receipt of attendance allowance, or disability living allowance by virtue of entitlement to the care component at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act 1992, 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 (3), the claimant has no non-dependants aged 18 or over residing with him,
- and either an invalid care allowance is in payment to someone 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 else such an allowance is not in payment to anyone in respect of caring for either member of a couple or any partner of a polygamous marriage.
- (3) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of either—
- (a) a person receiving attendance allowance, or disability living allowance by virtue of entitlement to the care component at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act 1992, or
 - (b) a boarder.

Disabled Child Premium

15. The condition is that a child or young person for whom the claimant or partner of his is responsible and who is a member of the claimant's household—

- (a) has no capital or capital which, if calculated in accordance with Chapter VI of Part IV in like manner as for the claimant would not exceed £3,000; and
- (b) is in receipt of disability living allowance or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (c) is blind or treated as blind within the meaning of paragraph 13.

Carer Premium

16.—(1) The condition is that the claimant or his partner is, or both of them are, in receipt of invalid care allowance under section 70 of the Contributions and Benefits Act 1992.

(2) If a claimant or his partner, or both of them, would be in receipt of invalid care allowance but for the provisions of the Social Security (Overlapping Benefits) Regulations 1979, where—

- (a) the claim for that allowance was made on or after the 1st October 1990, and
- (b) the person or persons in respect of whose care the allowance has been claimed remains or remain 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 Contributions and Benefits Act 1992,

he or his partner, or both of them, as the case may be, shall be treated for the purposes of subparagraph (1) as being in receipt of invalid care allowance.

(3) Where a carer premium is awarded but the person in respect of whom it is awarded either ceases to be in receipt of invalid care allowance or ceases to be treated as being in receipt of invalid care allowance, the condition for the award of the premium shall be treated as satisfied for a period of 8 weeks from the date on which that person ceased to be in receipt of, or ceased to be treated as being in receipt of, invalid care allowance.

(4) Where a person who has been receiving, or who has been treated as receiving invalid care allowance, ceases to be in receipt of, or treated as being in receipt of that allowance and makes a claim for council tax benefit, the condition for the award of the carer premium shall be treated as satisfied for a period of 8 weeks from the date the person was last in receipt of, or was last treated as being in receipt of, invalid care allowance.

Persons in receipt of concessionary payments

17. For the purpose of determining whether a premium is applicable to a person under paragraphs 13 to 16, any concessionary payment made to compensate that person for the nonpayment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

Person in receipt of benefit for another

18. 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 IV

AMOUNTS OF PREMIUMS SPECIFIED IN PART III

Premium	Amount
19. —	
(1) Lone Parent Premium	
(1) £10.60	
(2) Pensioner Premium for persons under 75—	(2)
(a) (a) where the claimant satisfies the condition in paragraph 9(a);	(a) (a) £16.70
(b) (b) where the claimant satisfies the condition in paragraph 9(b).	
(b) £25.35	
(3) Pensioner Premium for persons 75 or over—	(3)
(a) (a) where the claimant satisfies the condition in paragraph 10(a);	
(a) £18.65	

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Premium	Amount
(b) (b) where the claimant satisfies the condition in paragraph 10(b).	(b) (b) £28.00
(4) Higher Pensioner Premium—	(4)
(a) (a) where the claimant satisfies the condition in paragraph 11(1)(a) or (b);	(a) (a) £22.75
(b) (b) where the claimant satisfies the condition in paragraph 11(2)(a) or (b).	(b) (b) £32.55
(5) Disability Premium—	(5)
(a) (a) where the claimant satisfies the condition in paragraph 12(a);	(a) (a) £17.80
(b) (b) where the claimant satisfies the condition in paragraph 12(b).	(b) (b) £25.55
(6) Severe Disability Premium—	(6)
(a) (a) where the claimant satisfies the condition in paragraph 14(2)(a);	(a) (a) £32.55
(b) (b) where the claimant satisfies the condition in paragraph 14(2)(b)—	(b) (i) £32.55
(i) in a case where there is someone in receipt of an invalid care allowance;	
(ii) in a case where there is no-one in receipt of such an allowance.	(ii) £65.10
(7) Disabled Child Premium	(7) £17.80 in respect of each child or young person in respect of whom the condition specified in paragraph 15 of Part III of this Schedule is satisfied.
(8) Carer Premium	(8) £11.55 in respect of each person who satisfies the condition specified in paragraph 16.

SCHEDULE 2

Regulation 54

AMOUNT OF ALTERNATIVE MAXIMUM COUNCIL TAX BENEFIT

1.—(1) Subject to paragraphs 2 and 3, the alternative maximum council tax benefit in respect of a day for the purpose of regulation 54 shall be determined in accordance with the following Table and in this Table “second adult” means any person or persons residing with the claimant to whom section 131(6) of the Contributions and Benefits Act 1992 applies.

(2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 or 78 of the 1992 Act less any reductions made under section 13 or 80 (reduced amounts of council tax).

TABLE

(1) Second adult	(2) Alternative maximum council tax benefit
(a) (a) Where the second adult or all second adults are in receipt of income support;	(a) (a) 25 per cent. of the council tax due in respect of that day;
(b) (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,	(b) (b)
(i) does not exceed £100 per week;	(i) 15 per cent. of the council tax due in respect of that day;
(ii) exceeds £100 per week but does not exceed £130 per week;	(ii) 7.5 per cent. of the council tax due in respect of that day.

2. In determining a second adult's gross income for the purposes of this Schedule, there shall be disregarded from that income any attendance allowance, or any disability living allowance under section 71 of the Contributions and Benefits Act 1992.

3. Where there are two or more second adults residing with the claimant for benefit and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 of the 1992 Act, his income shall be disregarded in determining the amount of any alternative maximum council tax benefit, 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 3

Regulations 20(2), 22(2) and 27(3)

SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS

1. In the case of a claimant 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) any earnings paid or due to be paid in respect of that employment which has been terminated—
 - (i) by way of retirement but only if on retirement he is entitled to a retirement pension under the Contributions and Benefits Act 1992, or would be so entitled if he satisfied the contribution conditions,
 - (ii) otherwise than by retirement except earnings to which regulation 19(1)(b) to (e) and (g) to (i) (earnings of employed earners) applies;
- (b) any earnings paid or due to be paid in respect of that employment which has been interrupted except earnings to which regulation 19(1)(d) and (e) applies.

2. In the case of a claimant who has been engaged in part-time employment as an employed earner or, had the employment been in Great Britain, would have been so engaged before he made a claim for council tax benefit, any earnings paid or due to be paid in respect of that employment which has been terminated or interrupted before the claim is made except earnings to which regulation 19(1) (e) applies.

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3.—(1) In a case to which this paragraph applies, £15; but notwithstanding regulation 11 (calculation of income and capital of members of a claimant's family and of a polygamous marriage) if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £15.

(2) This paragraph applies where the claimant's applicable amount includes the amount by way of the disability premium or severe disability premium under Schedule 1 (applicable amounts).

(3) This paragraph applies where—

- (a) the claimant is a member of a couple and his applicable amount would, but for the higher pensioner premium under Schedule 1 being applicable, include an amount by way of the disability premium under that Schedule; and
- (b) he or his partner is under the age of 60 and at least one is engaged in employment.

(4) This paragraph applies where—

- (a) the claimant's applicable amount includes an amount by way of the higher pensioner premium under Schedule 1; and
- (b) the claimant or, if he is a member of a couple, either he or his partner has attained the age of 60; and
- (c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in employment and the claimant was entitled by virtue of sub-paragraph (2) to a disregard of £15; and
- (d) he or, if he is a member of a couple, he or his partner has continued in employment.

(5) This paragraph applies where—

- (a) the claimant is a member of a couple and his applicable amount would include an amount by way of the disability premium under Schedule 1, but for—
 - (i) the pensioner premium for persons aged 75 and over under that Schedule being applicable; or
 - (ii) the higher pensioner premium under that Schedule being applicable; and
- (b) he or his partner has attained the age of 75 but is under the age of 80 and the other is under the age of 60 and at least one member of the couple is engaged in employment.

(6) This paragraph applies where—

- (a) the claimant is a member of a couple and he or his partner has attained the age of 75 but is under the age of 80 and the other has attained the age of 60; and
- (b) immediately before the younger member attained that age either was engaged in employment and the claimant was entitled by virtue of sub-paragraph (5) to a disregard of £15; and
- (c) either he or his partner has continued in employment.

(7) For the purposes of this paragraph, no account shall be taken of any period not exceeding eight consecutive weeks occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in employment or the claimant ceased to be entitled to any or all of the following benefits namely community charge benefit, council tax benefit or housing benefit.

4. If an amount by way of a lone parent premium under Schedule 1 (applicable amounts) is or, but for any pensioner premium, higher pensioner premium or disability premium being applicable to him, would be included in the calculation of the claimant's applicable amount, £25.

5. In a case where paragraph 3 does not apply to the claimant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 11 (calculation of

income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £10.

6.—(1) In a case to which neither paragraph 3 nor 4 applies to the claimant, £15 of earnings derived from one or more employments as—

- (a) a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959⁽⁸⁵⁾;
- (b) an auxiliary coastguard in respect of coast rescue activities;
- (c) a person engaged part-time in the manning or launching of a life boat;
- (d) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979⁽⁸⁶⁾;

but, notwithstanding regulation 11 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the claimant'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 claimant's earnings disregarded under this paragraph exceed £15;
- (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 claimant's earnings disregarded under this paragraph exceed £15.

7. Where the claimant is engaged in one or more employments specified in paragraph 6(1), but his earnings derived from such employments are less than £15 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 claimant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 6 exceed £15.

8. In a case to which none of the paragraphs 3 to 7 applies, £5.

9. Any amount or the balance of any amount which would fall to be disregarded under paragraph 17, 18 or 28 of Schedule 4 had the claimant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

10. Where a claimant is on income support, his earnings.

11. 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.

12. 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.

13. Any earnings of a child or young person except earnings to which paragraph 14 applies.

14. In the case of earnings of a young person who has ceased full-time education for the purposes of section 142 of the Contributions and Benefits Act 1992 (meaning of child) and who is engaged in remunerative work—

- (a) if an amount by way of a disabled child premium under Schedule 1 is included in the calculation of his applicable amount, £15;
- (b) in any other case, £5.

⁽⁸⁵⁾ 1947 c. 41, 1951 c. 27, 1959 c. 44.

⁽⁸⁶⁾ S.I. 1979/591; Part I of Schedule 3 was substituted by S.I. 1980/1975.

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

SCHEDULE 4

Regulation 24(2)

SUMS TO BE DISREGARDED IN THE CALCULATION OF INCOME OTHER THAN EARNINGS

1. Any amount paid by way of tax on income which is to be taken into account under regulation 24 (calculation of income other than earnings).

2. Any payment in respect of any expenses incurred by a claimant who is—
- (a) engaged by a charitable or voluntary body, 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 26(4) (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, the whole of his income.

5. Any disability living allowance.

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

- (a) any payment specified in paragraph 5 or 8;
- (b) income support;
- (c) mobility allowance in section 37A of the Social Security Act 1975⁽⁸⁷⁾.

7. Any mobility supplement under article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983⁽⁸⁸⁾ (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983⁽⁸⁹⁾ or any payment intended to compensate for the non-payment of such a supplement.

8. Any attendance allowance.

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

10. Any sum in respect of a course of study attended by a child or young person payable by virtue of Regulations made under section 81 of the Education Act 1944⁽⁹⁰⁾ (assistance by means of scholarships or otherwise), or by virtue of section 2(1) of the Education Act 1962⁽⁹¹⁾ (awards for courses of further education), or section 49 of the Education (Scotland) Act 1980⁽⁹²⁾ (power to assist persons to take advantage of educational facilities).

11. In the case of a claimant participating in arrangements for training made under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland)

⁽⁸⁷⁾ Section 37A was inserted in the 1975 Act by section 22(1) of the Social Security Pensions Act 1975 (c. 60).

⁽⁸⁸⁾ S.I. 1983/883; article 26A was added by S.I. 1983/1116 and amended by S.I. 1983/1521, 1986/592 and 1989/156.

⁽⁸⁹⁾ S.I. 1983/686; article 25A was added by S.I. 1983/1164 and amended by S.I. 1986/628 and 1989/415.

⁽⁹⁰⁾ 1944 c. 31; amended by S.I. 1964/490.

⁽⁹¹⁾ 1962 c. 12; section 2(1) was substituted by section 19 and Schedule 5 to the Education Act 1980 (c. 20).

⁽⁹²⁾ 1980 c. 44.

Act 1990(93) or attending at an employment rehabilitation centre established under that section of the 1973 Act—

- (a) any travelling expenses reimbursed to the claimant;
- (b) if he receives an allowance under section 2(2)(d) of the 1973 Act or section 2(4)(c) of the 1990 Act, such amount, if any, of that allowance expressed to be a living away from home allowance;
- (c) any training premium,

but this paragraph, except in so far as it relates to a payment under sub-paragraph (a), (b) or (c), does not apply to any part of any allowance under section 2(2)(d) of the 1973 Act or section 2(4)(c) of the 1990 Act.

12. Any Job Start Allowance payable under section 2(1) of the Employment and Training Act 1973.

13.—(1) Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 34 and 35, £10 of any charitable payment or of any voluntary payment made or due to be made at regular intervals.

(2) Subject to sub-paragraph (3) and paragraph 35, any charitable payment or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than food, ordinary clothing or footwear, household fuel, eligible rent, council tax or water charges of a single claimant or, as the case may be, of the claimant or any other member of his family or is used for any council tax or water charges for which that claimant or member is liable.

(3) Sub-paragraphs (1) and (2) 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.

(4) For the purposes of sub-paragraph (1) where a number of charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

(5) For the purposes of sub-paragraph (2) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.

14. Subject to paragraph 34, £10 of any of the following, namely—

- (a) war disablement pension or war widow's pension or a payment made to compensate for the non-payment of such a pension;
- (b) a pension paid by the government of a country outside Great Britain which is either
 - (i) analogous to a war disablement pension; or
 - (ii) analogous to a war widow's pension;
- (c) a pension paid under any special provision made by the law of Germany or any part of it, or of the Republic of Austria, to victims of National Socialist persecution.

15.—(1) Any income derived from capital to which the claimant is or is treated under regulation 36 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1, 2, 4, 7, 13 or 24 to 27 of Schedule 5.

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(2) Income derived from capital disregarded under paragraph 2, 4 or 24 to 27 of Schedule 5 but only to the extent of—

- (a) any mortgage payments made in respect of the dwelling and premises; or
- (b) any—
 - (i) council tax, or
 - (ii) charges for water or services to which Schedule 11 paragraph 1(a) or (b) of the 1992 Act refer, which the claimant is liable to pay in respect of the dwelling or premises, in the period during which that income accrued.

16. 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% 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⁽⁹⁴⁾ (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 basic rate for the year of assessment in which the payment of interest becomes due,
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

17. 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 regulations made in exercise of the powers conferred by section 1 of the Education Act 1962⁽⁹⁵⁾, that student’s award under that section;
- (b) that student’s award under section 2 of that Act; or
- (c) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980⁽⁹⁶⁾, 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,

⁽⁹⁴⁾ 1988 c. 1.

⁽⁹⁵⁾ 1962 c. 12; sections 1 and 2 were substituted by section 19 and Schedule 5 of the Education Act 1980 (c. 20) and section 1(3) was amended by section 4 of the Education (Grants and Awards) Act 1984 (c. 11) and *see* the Education (Mandatory Awards) Regulations 1988 (S.I. 1988/1360).

⁽⁹⁶⁾ 1980 c. 44; and *see* the Education Authority Bursaries (Scotland) Regulations 1988 (S.I. 1988/1360).

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.

18.—(1) Where the claimant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of an award or grant in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) 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 17, an amount specified in subparagraph (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 subparagraph (1)(b),

whichever is less.

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

20. Where the claimant occupies a dwelling as his home which is also occupied by a person other than one to whom paragraph 19 refers and that person is contractually liable to make payments in respect of his occupation of the dwelling to the claimant—

- (a) £4 of any payment made by that person; and
- (b) a further £8.60 where the payment is inclusive of an amount for heating.

21. Where the claimant occupies a dwelling as his home which is also occupied by a boarder and payments are made by the boarder in respect of his occupation—

- (a) £20.00 of any payment made by that boarder; and
- (b) where any payment exceeds £20.00, 50% of the excess.

22. Any income in kind.

23. 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.

24.—(1) Any payment made to the claimant in respect of a person who is a member of his family—

- (a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976⁽⁹⁷⁾ (permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978⁽⁹⁸⁾ (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⁽⁹⁹⁾ (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence

⁽⁹⁷⁾ 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41).

⁽⁹⁸⁾ 1978 c. 28.

⁽⁹⁹⁾ 1989 c. 41.

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order) or as the case may be, section 50 of the Children Act 1975⁽¹⁰⁰⁾ (payment towards maintenance of children),

to the extent specified in sub-paragraph (2).

(2) In the case of a child or young person—

- (a) to whom regulation 27(2) applies (capital in excess of £3,000), the whole payment;
- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the amount included under Schedule 1 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.

25. 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 21 of the Social Work (Scotland) Act 1968⁽¹⁰¹⁾ or by a voluntary organisation under section 59(1)(a) of the 1989 Act or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985⁽¹⁰²⁾ (provision of accommodation and maintenance for children by local authorities and voluntary organisations).

26. Any payment made by a health authority, local authority or voluntary organisation to the claimant in respect of a person who is not normally a member of the claimant's household but is temporarily in his care.

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

28. An amount equal to any maintenance payment made by the claimant to his former partner or in respect of his children other than children who are members of his household.

29. Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan for the purchase of the dwelling which the claimant occupies as his home and secured on that dwelling to the extent that it does not exceed the amount calculated, on a weekly basis, of that repayment.

30. Any payment of income which by virtue of regulation 31 (income treated as capital) is to be treated as capital.

31. Any social fund payments made pursuant to Part VIII of the Contributions and Benefits Act 1992.

32. Any payment under section 148 of the Contributions and Benefits Act 1992 (pensioners' Christmas bonus).

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 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 11(3) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 43(2)(b) and regulation 44(1)(e) (calculation of covenant income where a contribution is assessed, covenant income where no grant income or no contribution is assessed), regulation 47(2) (treatment of student loans) and paragraphs 13 and 14 shall in no case exceed £10 per week.

35.—(1) Any payment made under the Trusts, the Fund or the Independent Living Fund.

⁽¹⁰⁰⁾1975 c. 72.

⁽¹⁰¹⁾1968 c. 49.

⁽¹⁰²⁾S.I. 1985/1799.

(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;
- (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, 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, 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, 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.

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(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.

36. Any housing benefit.

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

38. Any payment by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983(**103**).

39. 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(**104**).

40. 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 Contributions and Benefits Act 1992.

41. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988(**105**) or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987(**106**) (reduction of liability for personal community charges) or reduction of council tax either under section 13 or, as the case may be, section 80 of the 1992 Act.

42. 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(**107**);
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977(**108**);
- (c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(**109**);
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(**110**);
- (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(**111**),

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.

43.—(1) Any payment or repayment made—

- (a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(**112**) (travelling expenses and health service supplies);

(**103**) S.I. 1983/1399, relevant amending instruments are S.I. 1984/282 and 1986/1293.

(**104**) S.I. 1987/1683.

(**105**) 1988 c. 41; section 13A was inserted in the 1988 Act by the Local Government and Housing Act 1989 (c. 42) Schedule 5 paragraph 5.

(**106**) 1987 c. 47; section 13A was inserted in the 1987 Act by section 143 of the Local Government and Housing Act 1989.

(**107**) 1865 c. 73. Copies of the Order are available from Ministry of Defence NPC2 Archway Block South, Old Admiralty Building, Spring Gardens, London SW1A 2BE.

(**108**) Army code No 13045 published by HMSO.

(**109**) 1917 c. 51. RAF Queen's Orders are available from HMSO.

(**110**) 1980 c. 9. Copies of the Regulations are available from Ministry of Defence NPC2, Archway Block South, Old Admiralty Building, Spring Gardens, London, SW1A 2BE.

(**111**) Army code No 60589 published by HMSO.

(**112**) S.I. 1988/551.

- (b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(113) (travelling expenses and health services supplies).
- (2) Any payment or repayment made by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales which is analogous to a payment or repayment mentioned in sub-paragraph (1).
44. Any payment made under regulation 9 to 11 or regulation 13 of the Welfare Food Regulations 1988(114) (payments made in place of milk tokens or the supply of vitamins).
45. Any payment made by either the Secretary of State for the Home Department or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody.
- 46.—(1) Where a claimant's applicable amount includes an amount by way of the 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.
47. 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.
48. 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(115) or in accordance with arrangements made under section 2 of the Employment and Training Act 1973 to assist disabled persons to obtain or retain employment despite their disability.

SCHEDULE 5

Regulation 29(2)

CAPITAL TO BE DISREGARDED

1. The dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular any croft land on which the dwelling is situated; but, notwithstanding regulation 11 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.
2. Any premises acquired for occupation by the claimant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.
3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for

(113) S.I. 1988/546.

(114) S.I. 1988/536; relevant amending instrument is S.I. 1990/3.

(115) 1944 c. 10.

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such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part—
 - (a) by a partner or relative of a single claimant or any member of the family as his home where that person is either aged 60 or over or incapacitated;
 - (b) by the former partner of the claimant as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced.
5. Where a claimant is on income support, the whole of his capital.
6. Any reversionary interest.

7.—(1) The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

- (2) The assets of any business owned in whole or in part by the claimant where—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged, or reengaged, in that business;

a period of 26 weeks from the date on which the claim for council tax benefit is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

8. Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—
 - (a) any payment specified in paragraph 5, 7 or 8 of Schedule 4;
 - (b) an income-related benefit or supplementary benefit, family income supplement under the Family Income Supplements Act 1970(116) or housing benefit under Part II of the Social Security and Housing Benefits Act 1982(117),

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

9. Any sum—
 - (a) paid to the claimant 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 claimant (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.

10. Any sum—

(116) 1970 c. 55.

(117) 1982 c. 24.

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985⁽¹¹⁸⁾ or section 338(1) of the Housing (Scotland) Act 1987⁽¹¹⁹⁾ 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 claimant to complete the purchase.

11. Any personal possessions except those which have been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to council tax benefit or to increase the amount of that benefit.

12. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

13. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant the value of the trust fund and the value of the right to receive any payment under that trust.

14. The value of the right to receive any income under a life interest or from a liferent.

15. The value of the right to receive any income which is disregarded under paragraph 11 of Schedule 3 or paragraph 23 of Schedule 4.

16. The surrender value of any policy of life insurance.

17. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

18. Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (provision of services for children and their families and advice and assistance to certain children).

19. Any social fund payment made pursuant to Part VIII of the Contributions and Benefits Act 1992.

20. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988⁽¹²⁰⁾ (mortgage interest payable under deduction of tax) 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.

21. Any capital which by virtue of regulation 25 or 47 (capital treated as income or treatment of student loans) is to be treated as income.

22. 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.

23.—(1) Any payment made under the Trusts, the Fund or the Independent Living 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 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;
- (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

⁽¹¹⁸⁾ 1985 c. 69.

⁽¹¹⁹⁾ 1987 c. 26.

⁽¹²⁰⁾ 1988 c. 1.

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- (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, 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, 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, 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 capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (7) For the purpose of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund.

24.—(1) Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from 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 claimant as his home and any premises not so occupied which it is

impracticable or unreasonable to sell separately, in particular any croft land on which the dwelling is situated.

25. Any premises where the claimant 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.

26. Any premises which the claimant 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.

27. Any premises which the claimant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for such period as is necessary to enable those repairs or alterations to be carried out.

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

29. 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. The value of the right to receive an occupational or personal pension.

31. The value of the right to receive any rent.

32. Any payment in kind made by a charity or under the Trusts or the Fund.

33. Any payment not exceeding £200 made under section 2 of the Employment and Training Act 1973(**121**) (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(**122**) as a training bonus to a person participating in arrangements for training made under either of those sections, but only for a period of 52 weeks from the date of the receipt of that payment.

34. Any housing benefit.

35. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 (reduction of liability for personal community charge) or reduction of council tax under section 13 or, as the case may be section 80 of the 1992 Act, but only for a period of 52 weeks from the date of the receipt of the payment.

36. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988(**123**) or section 66 of the Housing (Scotland) Act 1988(**124**) (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,

(121) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19) section 25.

(122) 1990 c. 35.

(123) 1988 c. 50.

(124) 1988 c. 43.

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for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the claimant to commence occupation of those premises as his home.

37. Any arrears of special war widows payment which is disregarded under paragraph 42 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings), but only for a period of 52 weeks from the date of the receipt of the arrears.

38.—(1) Any payment or repayment made—

- (a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 (travelling expenses and health service supplies);
- (b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988 (travelling expenses and health service supplies);

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

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

39. Any payment made under regulation 9 to 11 or regulation 13 of the Welfare Food Regulations 1988 (payments made in place of milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of the receipt of the payment.

40. Any payment made either by the Secretary of State for the Home Department or by the Secretary of State for Scotland 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.

41. 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.

42. Any payment (other than training allowance, or training bonus under section 2 of the Employment and Training Act 1973) made, whether by the Secretary of State or any other person under the Disabled Persons (Employment) Act 1944⁽¹²⁵⁾ or in accordance with arrangements made under section 2 of the Employment and Training Act 1973⁽¹²⁶⁾ to assist disabled persons to obtain or retain employment despite their disability.

43. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958⁽¹²⁷⁾ to homeworkers assisted under the Blind Homeworkers' Scheme.

⁽¹²⁵⁾1944 c. 10.

⁽¹²⁶⁾1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

⁽¹²⁷⁾1958 c. 33.

SCHEDULE 6

Regulation 67

MATTERS TO BE INCLUDED IN THE NOTICE OF DETERMINATION

PART I

GENERAL

1. The statement of matters to be included in any notice of determination issued by an appropriate authority to a person, and referred to in regulation 67 (notification of determinations) and 69 (review of determinations) are those matters set out in the following provisions of this Schedule.

2. Every notice of determination shall include a statement as to the right of any person affected by that determination to request a written statement under regulation 67(2) (requests for statement of reasons) and the manner and time in which to do so.

3. Every notice of determination shall include a statement as to the right of any person affected by that determination to make written representations in accordance with regulation 69(2) and the manner and time in which to do so.

4. Every notice of determination following written representations in accordance with regulation 69(2) (review of determinations) shall include a statement as to whether the original determination in respect of which the person made his representations has been confirmed or revised and where the appropriate authority has not revised the determination the reasons why not.

5. Every notice of determination following written representations in accordance with regulation 69(2) (review of determinations) shall include a statement as to the right of any person affected by that determination to request a further review in accordance with regulation 70 (further review of determinations) and of the manner and time in which to do so.

6. An authority may include in the notice of determination any other matters not prescribed by this Schedule which it sees fit, whether expressly or by reference to some other document available without charge to the person.

7. Parts II, III and IV of this Schedule shall apply only to the notice of determination given on a claim.

8. Where a notice of determination is given following a review of an earlier determination—

(a) made of the authority's own motion which results in a revision of that earlier determination; or

(b) made following written representations in accordance with regulation 69(2) (review of determinations), whether or not resulting in a revision of that earlier determination,

that notice shall, subject to paragraph 6, contain a statement only as to all the matters reviewed.

PART II

AWARDS WHERE INCOME SUPPORT IS PAYABLE

9. Where a person on income support is awarded council tax benefit, the notice of determination shall include a statement as to—

(a) the normal weekly amount of council tax which may be rounded to the nearest penny;

(b) the normal weekly amount of the council tax benefit, which amount may be rounded to the nearest penny;

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- (c) the amount of and the category of non-dependant deductions made under regulation 52, if any;
- (d) the first day of entitlement to the council tax benefit;
- (e) the date on which his benefit period will end if it is not terminated earlier; and
- (f) his duty to notify any change of circumstances which might affect his entitlement to, or the amount of council tax benefit and, without prejudice to the extent of the duty owed under regulation 65 (duty to notify changes of circumstances), the kind of change of circumstances which is to be notified, either upon the notice or by reference to some other document available to him on application without charge

and in any case where the amount to which sub-paragraph (a) or (b) refers disregards fractions of a penny, the notice shall include a statement to that effect.

PART III

AWARDS WHERE NO INCOME SUPPORT IS PAYABLE

10. Where a person is not on income support but is awarded council tax benefit, the notice of determination shall include a statement as to—

- (a) the matters set out in paragraph 9;
- (b) his applicable amount and how it is calculated;
- (c) his weekly earnings; and
- (d) his weekly income other than earnings.

PART IV

NOTICE WHERE INCOME OF NON-DEPENDANT IS TREATED AS CLAIMANT'S INCOME

11. Where an authority makes a determination under regulation 12 (circumstances in which income and capital of a non-dependant is to be treated as the claimant's) the notice of determination shall contain a statement as to—

- (a) the fact that a determination has been made by reference to the income and capital of the claimant's non-dependant; and
- (b) the appropriate authority's reasons for making that determination.

PART V

NOTICE WHERE NO AWARD IS MADE

12. Where a person is not awarded council tax benefit under regulation 51 (maximum council tax benefit)—

- (a) on grounds of income, the notice of determination shall include a statement as to—
 - (i) the matters set out in paragraph 9(a), and
 - (ii) the matters set out in paragraph 10(b) to (d) where the person is not on income support;

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- (b) on the grounds that the amount of the alternative maximum council tax benefit exceeds the appropriate maximum council tax benefit, the matters set out in paragraph 15;
- (c) for any reason other than those mentioned in sub-paragraphs (a) or (b), the notice of determination shall include a statement as to the reason why no award has been made.

PART VI

AWARDS WHERE ALTERNATIVE MAXIMUM COUNCIL TAX BENEFIT IS PAYABLE IN RESPECT OF A DAY

13. Where a person is awarded council tax benefit determined in accordance with regulation 54 and Schedule 2 (alternative maximum council tax benefit) the notice of determination shall include a statement as to—

- (a) the normal weekly amount of council tax, which amount may be rounded to the nearest penny;
- (b) the normal weekly amount of the alternative maximum council tax benefit, which amount may be rounded to the nearest penny;
- (c) the gross income or incomes and the rate of benefit which apply under Schedule 2;
- (d) the first day of entitlement to benefit;
- (e) the date on which the benefit period will end if it is not terminated earlier;
- (f) the gross income of any second adult used to determine the rate of the alternative maximum council tax benefit or if any such adult is on income support;
- (g) the claimant's duty to notify any change of circumstances which might affect his entitlement to, or the amount of the alternative maximum council tax benefit and, without prejudice to the extent of the duty owed under regulation 65 (duty to notify changes of circumstances) the kind of change of circumstances which are to be notified, either upon the notice or by reference to some other document available to the claimant free of charge on application,

and in any case where the amount to which sub-paragraph (a) or (b) refers disregards fractions of a penny, the notice shall include a statement to that effect.

Notice where no award of alternative maximum council tax benefit is made

14. Where a person is not awarded council tax benefit in accordance with regulation 54 and Schedule 2 (alternative maximum council tax benefit)—

- (a) on the grounds that the gross income or as the case may be the aggregate gross incomes, of any second adult or adults in the claimant's dwelling is too high, the notice of determination shall include a statement as to the matters set out in paragraphs 13(a), (c) and (f);
- (b) on the grounds that the appropriate maximum council tax benefit is higher than the alternative maximum council tax benefit, the matters set out in paragraph 15 below;
- (c) for any reason not referred to in sub-paragraphs (a) and (b), the notice of determination shall include a statement as to why no award has been made.

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Notice where council tax benefit is awarded and section 131(9) of the Contributions and Benefits Act 1992(128) applies

15. Where the amount of a claimant's council tax benefit in respect of a day, is the greater of the appropriate maximum council tax benefit and the alternative maximum council tax benefit in his case the notice shall in addition to the matters set out in paragraphs 9, 10 or 13, as the case may be, include a statement as to—

- (a) the amount of whichever is the lesser of the appropriate maximum council tax benefit or the alternative maximum council tax benefit in his case, which amount may be rounded to the nearest penny; and
- (b) that this amount has not been awarded in consequence of the award of council tax benefit at a higher rate,

and in any case where the amount to which sub-paragraph (a) refers disregards fractions of a penny, the notice shall include a statement to that effect.

PART VII

NOTICE WHERE THERE IS RECOVERABLE EXCESS BENEFIT

16. Except in cases to which paragraphs (a) and (b) of regulation 83 (excess benefit in consequence of a reduction in an appropriate authority's council tax) refer, where the appropriate authority makes a determination that there is recoverable excess benefit within the meaning of regulation 84 (recoverable excess benefit), the notice of determination shall include a statement as to—

- (a) the fact that there is recoverable excess benefit;
- (b) the reason why there is recoverable excess benefit;
- (c) the amount of the recoverable excess benefit;
- (d) how the amount of the recoverable excess benefit was calculated;
- (e) the benefit weeks to which the recoverable excess benefit relates in each benefit period or, where the recoverable excess benefit relates to a past period of entitlement as a result of backdating a claim under regulation 62(16) (back dating of late claims), in that past period; and
- (f) the method or combination of methods by which the authority intends to recover the recoverable excess benefit, including—
 - (i) payment by or on behalf of the person concerned of the amount due by the specified date,
 - (ii) addition of the amount due to any amount in respect of the tax concerned for payment whether by instalments or otherwise by the specified date or dates, or
 - (iii) if recovery cannot be effected in accordance with heads (i) or (ii), requesting the Secretary of State to recover the excess benefits by deduction from the benefit prescribed in regulation 91 (recovery of excess benefit from prescribed benefits).

(128)Section 131 of the Contributions and Benefits Act 1992 as it applies to council tax benefit was substituted by the Local Government Finance Act 1992 (c. 14) Schedule 9 paragraph 4.

SCHEDULE 7

Regulation 70(3)

CONSTITUTION OF REVIEW BOARDS

1. A Review Board appointed by an authority listed in column (1) of the Table below shall consist of not less than three of the persons specified in relation to that authority in column (2) of that Table.

Table

(1) Authority	(2) Composition of Board
1. A billing authority other than the Common Council of the City of London.	1. Councillors of that Authority.
2. The Common Council of the City of London.	2. Persons who are mayor, aldermen or common councilmen.
3. In Scotland, a levying or district council.	3. Councillors of that authority or council.
4. In Scotland, a Development Corporation.	4. Members of a Development Corporation established for the purposes of a new town by Order made, or having effect as made under section 2(1) of the New Towns (Scotland) Act 1968(129).
5. Scottish Homes.	5. Members of the Scottish Homes.

2. The members of a Review Board shall appoint one of their number to be the Chairman.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for matters concerning entitlement to, the amount of and the claiming and payment of council tax benefit, which benefit was introduced into Part VII (income-related benefits) of the Social Security Contributions and Benefits Act 1992 (c. 4) by the amendments to that Act made by Schedule 9 of the Local Government Finance Act 1992 (c. 14).

Part I contains general provisions affecting the citation, commencement and interpretation of the Regulations (regulations 1 to 4).

Part II specifies the circumstances in which a child or young person under 19 is or is not to be treated as a member of a family and who is to be treated as a member of the same household as a claimant for council tax benefit (regulations 5 and 6).

Part III and Schedule 1 provide for the calculation of a person's applicable amount in respect of his entitlement to council tax benefit by reference to which the amount of his benefit is calculated. Provision is made with respect to polygamous marriages and persons receiving free in-patient treatment in a hospital (regulations 8 to 10).

(129)1968 c. 16.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part IV provides for the calculation of the income and capital of a claimant for council tax benefit, the earnings of employed and self employed earners, the treatment of income other than earnings including notional income, with the sums to be disregarded from such income set out in Schedules 3 and 4. Calculation of capital is also dealt with, with capital to be disregarded set out in Schedule 5 (regulations 11 to 37).

Part V provides for the treatment of students in particular the limits on their entitlement to council tax benefit. It also makes special provision with regards the calculation of their incomes (regulations 38 to 50).

Part VI specifies the maximum amount of council tax benefit to which a person is entitled and any deductions which are to be made from that maximum. It also provides for the cases in which the alternative maximum council tax benefit is to apply (regulations 51 to 55).

Part VII governs the start of entitlement to council tax benefit and the ending of a benefit period, in particular upon a relevant change in a claimant's circumstances. It also provides for exceptional cases in which the amount of benefit to which a person is entitled may be increased (regulations 56 to 60).

Part VIII provides for the making of claims and for a person's duty to notify changes of circumstances affecting entitlement to benefit (regulations 61 to 65).

Part IX provides for the determination of questions arising on claims and the review of such determinations (regulations 66 to 76).

Part X provides for the awarding or paying of council tax benefit including to whom awards or payments are to be made and for the withholding of benefit in certain cases (regulations 77 to 82).

Part XI provides for the recovery of excess benefit, the cases in which such excess benefit is to be recoverable and the methods of recovery (regulations 83 to 91).

Part XII provides for the exchange of information between the Secretary of State and billing or levying authorities in connection with their respective functions with respect to social security benefits and council tax benefit.

These Regulations are made before the expiry of 6 months from the commencement of the provisions under which they are made and are accordingly exempt by section 61(5) of the Social Security Act 1986, from reference to the Social Security Advisory Committee and have not been so referred.