

SCHEDULE 1

Regulation 11

Ineligible service charges

PART 1

Service charges other than for fuel

Ineligible service charges

1. The following service charges shall not be eligible to be met by housing benefit—
 - (a) charges in respect of day-to-day living expenses including, in particular, all provision of—
 - (i) subject to paragraph 2 meals (including the preparation of meals or provision of unprepared food);
 - (ii) laundry (other than the provision of premises or equipment to enable a person to do his own laundry);
 - (iii) leisure items such as either sports facilities (except a children's play area), or television rental and licence fees (except radio relay charges, charges made in respect of the conveyance and the installation and maintenance of equipment for such conveyance of a television broadcasting service which is not a domestic satellite service, or charges made in respect of the conveyance and the installation and maintenance of equipment for such conveyance of a television programme service where in respect of the claimant's dwelling the installation of such equipment is the only practicable means of conveying satisfactorily a television broadcasting service which is not a domestic satellite service, as these services are defined in the Broadcasting Act 1990⁽¹⁾);
 - (iv) cleaning of rooms and windows except cleaning of—
 - (aa) communal areas; or
 - (bb) the exterior of any windows where neither the claimant nor any member of his household is able to clean them himself,
where a payment is not made in respect of such cleaning by a local authority (including, in relation to England, a county council) or the National Assembly for Wales to the claimant or his partner, or to another person on their behalf; and
 - (v) transport;
 - (b) charges in respect of—
 - (i) the acquisition of furniture or household equipment; and
 - (ii) the use of such furniture or equipment where that furniture or household equipment will become the property of the claimant by virtue of an agreement with the landlord;
 - (c) charges in respect of the provision of an emergency alarm system;
 - (d) charges in respect of medical expenses (including the cost of treatment or counselling related to mental disorder, mental handicap, physical disablement or past or present alcohol or drug dependence);
 - (e) charges in respect of the provision of nursing care or personal care (including assistance at meal-times or with personal appearance or hygiene);

(1) 1990 c. 42.

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- (f) charges in respect of general counselling or of any other support services, whoever provides those services;
- (g) charges in respect of any services not specified in sub-paragraphs (a) to (f) which are not connected with the provision of adequate accommodation.

Amount ineligible for meals

2.—(1) Where a charge for meals is ineligible to be met by housing benefit under paragraph 1, the amount ineligible in respect of each week shall be the amount specified in the following provisions of this paragraph.

(2) Subject to sub-paragraph (4), where the charge includes provision for at least three meals a day, the amount shall be—

- (a) for a single claimant, £20.05;
- (b) if the claimant is a member of a family—
 - (i) for the claimant and for each member of his family aged 16 or over, £20.05;
 - (ii) for each member of his family under age 16, £10.15.

(3) Except where sub-paragraph (5) applies and subject to sub-paragraph (4), where the charge includes provision for less than three meals a day, the amount shall be—

- (a) for a single claimant, £13.35;
- (b) if the claimant is a member of a family—
 - (i) for the claimant and for each member of his family aged 16 or over, £13.35;
 - (ii) for each member of his family under age 16, £6.70.

(4) For the purposes of sub-paragraphs (2)(b) and (3)(b), a person attains the age of 16 on the first Monday in September following his 16th birthday.

(5) Where the charge for meals includes the provision of breakfast only, the amount for the claimant and, if he is a member of a family, for the claimant and for each member of his family, shall be £2.45.

(6) Where a charge for meals includes provision for meals for a person who is not a member of the claimant's family sub-paragraphs (2) to (5) shall apply as if that person were a member of the claimant's family.

(7) For the avoidance of doubt where the charge does not include provision for meals for a claimant or, as the case may be, a member of his family, sub-paragraphs (2) to (5) shall not apply in respect of that person.

Amount of ineligible charges

3.—(1) Subject to paragraph 2 where an ineligible service charge is not separated from or separately identified within other payments made by the occupier in respect of the dwelling, the appropriate authority shall apportion such charge as is fairly attributable to the provision of that service, having regard to the cost of comparable services and such portion of those payments shall be ineligible to be met by housing benefit.

(2) Subject to paragraph 2, where the relevant authority considers that the amount of any ineligible service charge which is separately identified within other payments made by the occupier in respect of the dwelling is unreasonably low having regard to the service provided, it shall substitute a sum for the charge in question which it considers represents the value of the services concerned and the amount so substituted shall be ineligible to be met by housing benefit.

(3) In sub-paragraph (2) the expression “ineligible service charge” includes any service charge which does not qualify as a periodical payment under regulation 12(1)(e) (rent).

(4) In any other case, the whole amount of the ineligible service charge shall be ineligible to be met by housing benefit.

Excessive service costs

4. Subject to paragraph 2, where the relevant authority considers that the amount of a service charge to which regulation 12(1)(e) (rent) applies is excessive in relation to the service provided for the claimant or his family, having regard to the cost of comparable services, it shall make a deduction from that charge of the excess and the amount so deducted shall be ineligible to be met by housing benefit.

PART 2

Payments in respect of fuel charges

5. A service charge for fuel except a charge in respect of services for communal areas shall be ineligible to be met by housing benefit.

6.—(1) Where a charge is ineligible to be met by housing benefit under paragraph 5—

- (a) in the calculation of entitlement to a rent rebate; or
- (b) in the calculation of entitlement to a rent allowance if the amount of the charge is specified or is otherwise readily identifiable (except where the amount of the charge is unrealistically low in relation to the fuel provided or the charge cannot readily be distinguished from a charge for a communal area),

the amount ineligible to be met by housing benefit shall be the full amount of the service charge.

(2) In any other case, subject to sub-paragraphs (3) and (4) and paragraph 7, the amount ineligible to be met by housing benefit shall be the following amounts in respect of each week—

- (a) for heating (other than hot water) £10.55;
- (b) for hot water £1.25;
- (c) for lighting £0.85;
- (d) for cooking £1.20.

(3) Where the accommodation occupied by the claimant or, if he is a member of a family, by the claimant and the members of his family, consists of one room only, the amount ineligible to be met by housing benefit in respect of each week where heating only is, or heating and either hot water or lighting (or both) are, provided, shall be one-half of the aggregate of the amounts specified in sub-paragraphs (2)(a), (b) and (c).

(4) In a case to which sub-paragraph (2) or (3) applies, if a claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, the amount ineligible to be met by housing benefit under this paragraph shall be that estimated amount.

7.—(1) Where rent is payable other than weekly, any amount ineligible to be met by housing benefit which is specified in this Schedule as a weekly amount shall—

- (a) where rent is payable in multiples of a week, be multiplied by the number equal to the number of weeks in respect of which it is payable; or

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- (b) in any other case, be divided by 7 and multiplied by the number of days in the period to be used by the relevant authority for the purpose of calculating the claimant's weekly eligible rent under regulation 80 (calculation of weekly amounts).
- (2) In a case to which regulation 81 applies (rent free periods), any amount ineligible to be met by housing benefit which is specified in this Schedule as a weekly amount shall, where appropriate, be converted in accordance with sub-paragraph (1) and shall—
 - (a) where rent is payable weekly, or in multiples of a week, be multiplied by 52 or 53, whichever is appropriate, and divided by the number equal to the number of weeks in that 52 or 53 week period in respect of which he is liable to pay rent; or
 - (b) in any other case, be multiplied by 365 or 366, whichever is appropriate, and divided by the number of days in that 365 or 366 day period in respect of which he is liable to pay rent.

8. In this Schedule—

“communal areas” mean areas (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation;

“fuel” includes gas and electricity and a reference to a charge for fuel includes a charge for fuel which includes an amount in respect of the facility of providing it other than a specified amount for the provision of a heating system.

SCHEDULE 2

Regulation 14

Excluded tenancies

1. An excluded tenancy is any tenancy to which any of the following paragraphs applies.
- 2.—(1) Subject to the following sub-paragraphs, where a rent officer has made a determination, which relates to the tenancy in question or any other tenancy of the same dwelling this paragraph applies to—
 - (a) the tenancy in respect of which that determination was made; and
 - (b) any other tenancy of the same dwelling on terms which are substantially the same, other than the term relating to the amount of rent, as those terms were at the time of that determination or, if earlier, at the end of the tenancy.
- (2) For the purposes of any claim, notification, request or application under regulation 14(1) (“the later application”), a tenancy shall not be an excluded tenancy by virtue of sub-paragraph (1) by reference to a rent officer's determination made in consequence of an earlier claim, notification, request or application (“the earlier application”) where—
 - (a) the earlier and later applications were made in respect of the same claimant or different claimants; and
 - (b) the earlier application was made more than 52 weeks before the later application was made.
- (3) Sub-paragraph (1) shall not apply where subsequent to the making of the determination mentioned in that sub-paragraph—
 - (a) the number of occupiers of the dwelling has changed and that dwelling is not in a hostel;
 - (b) there has been a substantial change in the condition of the dwelling (including the making of improvements) or the terms of the tenancy other than a term relating to rent;
 - (c) there has been a rent increase under a term of the tenancy and the term under which that increase was made was either included in the tenancy at the time when the application for that determination was made (or was a term substantially the same as such a term) and

that determination was not made under paragraph 1(2), 2(2) or 3(3) of Schedule 1 to the Rent Officers Order;

- (d) in a case where the rent officer has made a determination under paragraph 2(2) of Schedule 1 to the Rent Officers Order (size and rent determinations), but since the date of the application for that determination—
 - (i) a child, who is a member of the household occupying the dwelling, has attained the age of 10 years; or
 - (ii) a young person, who is a member of the household occupying that dwelling, has attained the age of 16 years; or
 - (iii) there is a change in the composition of the household occupying the dwelling;
- (e) the claimant is a young individual, except in a case where the determination mentioned in sub-paragraph (1) was, or was made in conjunction with, a determination of a single room rent pursuant to paragraph 5 of Schedule 1 to the Rent Officers Order on or after 2nd July 2001.

3.—(1) This paragraph applies where the landlord is a registered housing association, except in a case where the local authority consider that—

- (a) the claimant occupies a dwelling larger than is reasonably required by him and any others who occupy that dwelling (including any non-dependants of his and any person paying rent to him); or
- (b) the rent payable for that dwelling is unreasonably high.

(2) Where the circumstances set out in head (a) or (b) of sub-paragraph (1) above exist, the authority shall so state in their application for a determination.

4. This paragraph applies to a tenancy entered into before—

- (a) in Scotland, 2nd January 1989; and
- (b) in any other case, 15th January 1989.

5. This paragraph applies to a regulated tenancy within the meaning of—

- (a) in Scotland, the Rent (Scotland) Act 1984(2); and
- (b) in any other case, the Rent Act 1977(3).

6. This paragraph applies to a housing association tenancy which—

- (a) in Scotland, is a tenancy to which Part 6 of the Rent (Scotland) Act 1984 applies; and
- (b) in any other case, is a housing association tenancy to which Part 6 of the Rent Act 1977 applies.

7. This paragraph applies to a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976(4).

8. This paragraph applies to a tenancy at a low rent within the meaning of Part 1 of the Landlord and Tenant Act 1954(5) or Schedule 10 to the Local Government and Housing Act 1989(6).

(2) 1984 c. 58.
(3) 1977 c. 42.
(4) 1976 c. 80.
(5) 1954 c. 56.
(6) 1989 c. 42.

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9. This paragraph applies to a tenancy of any dwelling which is a bail hostel or probation hostel approved by the Secretary of State under section 9(1) of the Criminal Justice and Court Services Act 2000(7).

10. This paragraph applies to a tenancy of a housing action trust established under Part 3 of the Housing Act 1988(8).

11.—(1) Subject to sub-paragraphs (2) and (3) this paragraph applies to a tenancy—

- (a) in respect of a dwelling comprised in land which has been disposed of under section 32 of the Housing Act 1985(9) or section 12 of the Housing (Scotland) Act 1987(10);
- (b) in respect of a dwelling comprised in land which has been disposed of with the consent required by section 43 of the Housing Act 1985(11) or section 12 of the Housing (Scotland) Act 1987;
- (c) in respect of which the fee simple estate has been acquired, under the right conferred by Chapter 2 of Part 1 of the Housing Act 1996(12), otherwise than from a housing action trust within the meaning of Part 3 of the Housing Act 1988, or in respect of which the house has been acquired under the right conferred by Part 3 of the Housing (Scotland) Act 1988; or
- (d) in respect of a dwelling disposed of under the New Towns (Transfer of Housing Stock) Regulations 1990(13) to a person who is an approved person for the purposes of disposal under those Regulations or in respect of a dwelling disposed of pursuant to powers contained in the New Towns (Scotland) Act 1968(14) to a housing association.

(2) This paragraph shall not apply to a tenancy to which sub-paragraph (1) refers if—

- (a) there has been an increase in rent since the disposal or acquisition, as the case may be, occurred; and
- (b) the local authority stated in the application for determination that—
 - (i) the claimant occupies a dwelling larger than is reasonably required by him and any others who occupy that dwelling (including any non-dependant of his and any person paying rent to him); or
 - (ii) the rent payable for that dwelling is unreasonably high.

(3) Where the disposal or acquisition, as the case may be, took place on or after 7th October 2002, sub-paragraph (2)(b) shall apply to a tenancy to which sub-paragraph (1) refers as if head (i) were omitted.

12. In this Schedule, “rent” shall be construed in accordance with paragraph (10) of regulation 14 (interpretation of “tenancy” and other expressions appropriate to a tenancy) and, subject to that paragraph, has the same meaning—

- (a) in Scotland, as in section 25 of the Housing (Scotland) Act 1988(15), except that the reference to the house in subsection (3) shall be construed as a reference to the dwelling;

(7) 2000 c. 43.

(8) 1988 c. 50.

(9) 1985 c. 68; section 32 was amended by section 140 of and Schedule 7 to the Housing Act 1988 (c. 50); section 227 of and Schedule 19 to the Housing Act 1996 (c. 52) and S.I. 1997/74.

(10) 1987 c. 26.

(11) 1985 c. 68; section 43 was amended by section 132 and 140 of and Schedule 17 to the Housing Act 1988 (c. 50); section 194 of and Schedule 12 to the Local Government and Housing Act 1989 (c. 42); section 78 of and Schedule 10 to the Environment Act 1995 (c. 25) and section 227 of and Schedule 9 to the Housing Act 1996.

(12) 1996 c. 52.

(13) S.I. 1990/1700; amended by S.I. 1990/2366 and 1991/1281.

(14) 1968 c. 16. Relevant amendments are contained in the Enterprise and New Towns (Scotland) Act 1990 (c. 35) section 33.

(15) 1988 c. 43; section 25 was amended by S.I. 1993/658.

- (b) in any other case, as in section 14 of the Housing Act 1988(16), except that the reference to the dwelling-house in subsection (4) shall be construed as a reference to the dwelling, and—
- (i) other expressions have the same meanings as in regulation 14(10);
 - (ii) in the case of a determination by a rent officer pursuant to a request for such a determination under regulation 14(1)(e), any reference to a “tenancy” shall be taken as a reference to a prospective tenancy and any reference to an “occupier” or any person “occupying” a dwelling shall, in the case of such a determination, be taken to be a reference to a potential occupier or potential occupation of that dwelling.

SCHEDULE 3

Regulation 22

Applicable amounts

PART 1

Personal allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of regulations 22(a) and 23(a) and (b)—

<i>Column (1)</i> <i>Person or couple</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single claimant aged—	(1)
(a) (a) less than 25;	(a) (a) £44.50;
(b) (b) not less than 25	(b) (b) £56.20.
(2) Lone parent aged—	(2)
(a) (a) less than 18;	(a) (a) £44.50;
(b) (b) not less than 18	(b) (b) £56.20.
(3) Couple—	(3)
(a) (a) where both members are aged less than 18;	(a) (a) £67.15;
(b) (b) where at least one member is aged not less than 18.	(b) (b) £88.15.

2.—(1) The amount specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of regulations 22(b) and 23(c)—

<i>Column (1)</i> <i>Child or young person</i>	<i>Column (2)</i> <i>Amount</i>
Persons in respect of the period—	

(16) 1988 c. 50; section 14 was amended by section 104 of and Schedule 8 to the Housing Act 1996 (c. 52) and S.I. 1993/651.

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<i>Column (1)</i> <i>Child or young person</i>	<i>Column (2)</i> <i>Amount</i>
(a) (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	(a) (a) £43.88;
(b) (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's nineteenth birthday.	(b) (b) £43.88.

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

PART 2

Family premium

3.—(1) Subject to sub-paragraph (2), the amount for the purposes of regulations 22(c) and 23(d) in respect of a family of which at least one member is a child or young person shall be—

- (a) where the claimant is a lone parent to whom sub-paragraph (3) applies, £22.20;
- (b) in any other case, £16.10.

(2) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.50 where at least one child is under the age of one year and for the purposes of this paragraph where the child's first birthday does not fall on a Monday he shall be treated as under the age of one year until the first Monday after his first birthday.

(3) The amount in sub-paragraph (1)(a) shall be applicable to a lone parent—

- (a) who was entitled to housing benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under sub-paragraph (a) of this paragraph as in force on that date; or
- (b) who was not entitled to housing benefit on 5th April 1998 because that date fell during a rent free period as defined in regulation 81(1) (rent free periods) and his applicable amount on that date would have included the amount applicable under sub-paragraph (a) of this paragraph as in force on that date; or
- (c) on becoming entitled to housing benefit where that lone parent—
 - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (5)(a) as at the day before the date of claim for that benefit; and
 - (ii) was entitled to council tax benefit as at the date of claim for housing benefit,

and in respect of whom, all of the conditions specified in sub-paragraph (4) have continued to apply.

(4) The conditions specified for the purposes of sub-paragraph (3) are that, in respect of the period commencing on 6th April 1998—

- (a) the claimant has not ceased to be entitled, or has not ceased to be treated as entitled, to housing benefit;
- (b) the claimant has not ceased to be a lone parent;

- (c) where the claimant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continued to be entitled to one or other of those benefits;
 - (d) where the claimant was not entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has not become entitled to either of those benefits; and
 - (e) a premium under paragraph 9, 10, 11 or 12 has not become applicable to the claimant.
- (5) For the purposes of sub-paragraphs (3)(c)(i) and (4)(a), a claimant shall be treated as entitled to housing benefit—
- (a) during any period where he was not, or had ceased to be, so entitled and throughout that period, he had been awarded council tax benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit Regulations 2006 (lone parent rate of family premium); or
 - (b) during any rent free period as defined for the purposes of regulation 81(1).

PART 3

Premiums

4. Except as provided in paragraph 5, the premiums specified in Part 4 of this Schedule shall, for the purposes of regulations 22(d) and 23(e), be applicable to a claimant who satisfies the condition specified in paragraphs 8 to 17 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) Subject to sub-paragraph (2), the following premiums, namely—

- (a) a severe disability premium to which paragraph 14 applies;
- (b) an enhanced disability premium to which paragraph 15 applies;
- (c) a disabled child premium to which paragraph 16 applies; and
- (d) a carer premium to which paragraph 17 applies,

may be applicable in addition to any other premium which may apply under this Schedule.

(2) An enhanced disability premium in respect of a person shall not be applicable in addition to—

- (a) a pensioner premium under paragraph 9 or 10; or
- (b) a higher pensioner premium under paragraph 11.

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(17) applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the 1973 Act, or by Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New

Towns (Scotland) Act 1990(18) or for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 17, a person shall be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act.

Bereavement premium

8.—(1) Subject to sub-paragraphs (2) and (3), the condition is that the claimant—

- (a) had, as at 9th April 2001, attained the age of 55 but not the age of 60;
- (b) was in receipt of, but is no longer entitled to, a bereavement allowance under section 39B of the Act in respect of the death of a spouse who died on or after 9th April 2001 or of a civil partner who died on or after 5th December 2005; and
- (c) is claiming housing benefit as a single claimant.

(2) A premium under sub-paragraph (1) shall not be applicable in respect of a claimant who claims housing benefit more than 8 weeks after the last day on which he was entitled to a bereavement allowance.

(3) Where a claimant to whom a premium under sub-paragraph (1) is applicable, ceases to be entitled to housing benefit or to be a single claimant, a premium under sub-paragraph (1) shall only again be applicable to that claimant where he claims housing benefit as a single claimant no more than 8 weeks after the date on which he ceased to be entitled to housing benefit or, as the case may be, to be a single claimant.

(4) For the purposes of this paragraph, where the claimant—

- (a) was entitled to council tax benefit at any time in the period of 8 weeks before becoming entitled or re-entitled to housing benefit; and
- (b) satisfied the conditions in respect of a bereavement premium under paragraph 8 of Schedule 1 to the Council Tax Benefit Regulations 2006,

for the purpose of establishing entitlement or re-entitlement for housing benefit, he shall be treated as satisfying the equivalent conditions for a bereavement premium under this paragraph.

Pensioner Premium for persons under 75

9. The condition is that the claimant—

- (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—

(18) 1990 c. 35.

- (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, or was treated as being in receipt of, housing benefit and the disability premium was or, as the case may be, would have been, 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 housing 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, or was treated as being in receipt of, housing benefit and the disability premium was or, as the case may be, would have been, 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 housing 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 or treated as entitled to housing benefit, he shall, on becoming re-entitled to housing 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 or treated as entitled to housing benefit for a period not exceeding 8 weeks which includes his 60th birthday, he shall, on becoming re-entitled to housing benefit, thereafter be treated as having been continuously entitled to that benefit.
 - (c) where the claimant or his partner—
 - (i) was entitled to council tax benefit or, as the case may be, community charge benefit at any time in the period of 8 weeks before becoming entitled or re-entitled to housing benefit; and
 - (ii) satisfied the conditions in respect of the higher pensioner premium under paragraphs 11 and 13 of Schedule 1 to the Council Tax Benefit Regulations 2006 or, as the case may be, paragraphs 11 and 13 of Schedule 1 to the Community Charge Benefits (General) Regulations 1989⁽¹⁹⁾,for the purpose of establishing entitlement or re-entitlement to housing benefit, he or his partner shall be treated as satisfying the equivalent conditions for higher pensioner premium under this paragraph and paragraph 13.
- (4) In the case of a claimant who is a welfare to work beneficiary, references in sub-paragraphs (1)(b)(ii), (2)(b)(ii), (3)(b) and (3)(c)(i) to a period of 8 weeks shall be treated as references to a period of 52 weeks.
- (5) A person is a welfare to work beneficiary if he is a person—
- (a) to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995⁽²⁰⁾ applies; and
 - (b) who again becomes incapable of work for the purposes of Part 12A of the Act.

⁽¹⁹⁾ S.I. 1989/1321.

⁽²⁰⁾ S.I. 1995/311; relevant amending Instruments are S.I. 1998/2231 and 1999/3109.

(6) For the purposes of this paragraph, a claimant shall be treated as having been entitled to and in receipt of housing benefit throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to that benefit because, as a consequence of his participation in that programme, he failed to satisfy the condition in section 130(1)(c) of the Act.

Disability Premium

12. The condition is that—

- (a) where the claimant is a single claimant or a 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, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit Regulations, mobility supplement, long-term incapacity benefit under Part 2 of the Act or severe disablement allowance under Part 3 of the Act but, in the case of long-term incapacity benefit or severe disablement allowance only where it is paid in respect of him; or
 - (ii) was in receipt of long-term incapacity benefit under Part 2 of the Act 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 housing benefit and, if the long-term incapacity benefit 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 24 (patients) applies, was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the Act or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 24(2); 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⁽²¹⁾ (other services) or, in Scotland by the Scottish Ministers, under section 46 of the National Health Service (Scotland) Act 1978⁽²²⁾ (provision of services) or receives payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland by the Scottish Ministers, under section 46 of the Act of 1978; or

⁽²¹⁾ 1977 c. 49; section 5(2) was amended subsection (2A) added by the Public Health Laboratory Services Act 1979 (c. 23), section 1, and subsection (2B) added by section 9 of the Health and Social Security Act 1984 (c. 48).

⁽²²⁾ 1978 c. 29.

- (v) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948(23) (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994(24); or
- (b) the claimant—
 - (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work); and
 - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
 - (aa) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of the Act(25), 196 days;
 - (bb) in any other case, 364 days.

(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 or to be incapable of work he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purpose of sub-paragraph (1)(a)(ii) and (iii), once the higher pensioner premium is applicable to the claimant by virtue of his satisfying the condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be entitled to housing benefit, he shall on again becoming so entitled to housing benefit, immediately thereafter be treated as satisfying the 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 1973 Act(26) or for any period during which he is in receipt of a training allowance.

(6) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.

(7) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-

(23) 1948 c. 29; section 29 was amended by the National Assistance (Amendment) Act 1959 (c. 30), section 1(2); the Mental Health (Scotland) Act 1960 (c. 61), sections 113(1) and 114 of and Schedule 4 to the Social Work (Scotland) Act 1968 (c. 49), section 95(2) and Schedule 9 Part 1; the Local Government Act 1972 (c. 70), sections 195(6), 272(1), Schedule 23 paragraph 2 and Schedule 30; the Employment and Training Act 1973 (c. 50), section 14(1) and Schedule 3 paragraph 3; the National Health Service Act 1977 (c. 49), section 129 and Schedule 15 paragraph 6; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 30 and Schedule 10 Part I; the Children Act 1989 (c. 41) section 108(5) and Schedule 13 paragraph 11(2); and the National Health Service and Community Care Act 1990 (c. 19), section 44(7).

(24) 1994 c. 39. Section 2 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 232(1).

(25) Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994(c. 18), section 2.

(26) 1973 c. 50; section 2 was amended by the Employment Act 1988 (c. 19), section 25(1); the Employment Act 1989 (c. 38), Part I, Schedule 7; and the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47(1).

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term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(8) In the case of a claimant who is a welfare to work beneficiary within the meaning of paragraph 11(5)—

- (a) the reference to a period of 8 weeks in sub-paragraph (3); and
- (b) the reference to a period of 56 days in sub-paragraph (6),

shall in each case be treated as a reference to a period of 52 weeks.

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, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (3)—
 - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and
 - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
 - (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the Act 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 the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; and
 - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
 - (iii) subject to sub-paragraph (4), the claimant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to or in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.

(3) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 13(1)(a)(v) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of—

- (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 13(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person shall be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Act, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of carer's allowance to the extent that payment of such an award is backdated for a period before the date on which the award is made.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 7 of the Social Security Fraud Act 2001(27) (loss of benefit provisions).

Enhanced disability premium

15.—(1) Subject to sub-paragraph (2), the condition is that the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the Act or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 72(3) of the Act in respect of—

- (a) the claimant; or
- (b) a member of the claimant's family,

who is aged less than 60.

(2) An enhanced disability premium shall not be applicable in respect of—

- (a) a claimant who—
 - (i) is not a member of a couple or a polygamous marriage; and
 - (ii) is a patient within the meaning of regulation 24(2) and has been for a period of more than 52 weeks; or
- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of regulation 24(2) and has been for a period of more than 52 weeks.

Disabled child premium

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

- (a) is in receipt of disability living allowance or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 13; or
- (c) is a child or young person in respect of whom section 145A of the Act(28) (entitlement to child benefit after death of child) applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of the Act and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child.

(27) 2001 c. 11; section 7 was amended by the State Pension Credit Act 2002, section 14 and Schedule 2 and by the Tax Credits Act 2002, section 60 and Schedule 6.

(28) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21); and amended by the Civil Partnership Act 2004 (c. 33), section 254 and Schedule 24, and paragraph 8.

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Carer premium

17.—(1) The condition is that the claimant or his partner is, or both of them are, entitled to a carer’s allowance under section 70 of the Act.

- (2) Where a carer premium is awarded but—
 - (a) the person in respect of whose care the carer’s allowance has been awarded dies; or
 - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer’s allowance,

the condition for the award of the premium shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

- (3) The relevant date for the purposes of sub-paragraph (2) shall be—
 - (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer’s allowance has been awarded or the date of death if the death occurred on a Sunday;
 - (b) in any other case, the date on which the person who has been entitled to a carer’s allowance ceases to be entitled to that allowance.

(4) Where a person who has been entitled to a carer’s allowance ceases to be entitled to that allowance and makes a claim for housing benefit, the condition for the award of the carer premium shall be treated as satisfied for a period of eight weeks from the date on which—

- (a) the person in respect of whose care the carer’s allowance has been awarded dies;
- (b) in any other case, the person who has been entitled to a carer’s allowance ceased to be entitled to that allowance.

Persons in receipt of concessionary payments

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

Person in receipt of benefit

19. For the purposes of this Part of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

PART 4

Amounts of premiums specified in Part 3

<i>Premium</i>	<i>Amount</i>
20. —	(1) £25.85.
(1) Bereavement Premium	
(2) Pensioner Premium for persons aged under 75—	(2)
(a) (a) where the claimant satisfied the condition in paragraph 9(a);	(a) (a) £53.25;

<i>Premium</i>	<i>Amount</i>
(b) (b) where the claimant satisfies the condition in paragraph 9(b).	(b) (b) £78.90.
(3) Pensioner Premium for persons aged 75 and over—	(3)
(a) (a) where the claimant satisfied the condition in paragraph 10(a);	(a) (a) £53.25;
(b) (b) where the claimant satisfies the condition in paragraph 10(b).	(b) (b) £78.90.
(4) Higher Pensioner Premium—	(4)
(a) (a) where the claimant satisfies the condition in paragraph 11(1)(a) or (b);	(a) (a) £53.25;
(b) (b) where the claimant satisfies the condition in paragraph 11(2)(a) or (b).	(b) (b) £78.90.
(5) Disability Premium—	(5)
(a) (a) where the claimant satisfies the condition in paragraph 12(a);	(a) (a) £23.95;
(b) (b) where the claimant satisfies the condition in paragraph 12(b).	(b) (b) £34.20.
(6) Severe Disability Premium—	(6)
(a) (a) where the claimant satisfies the condition in paragraph 14(2)(a);	(a) (a) £45.50;
(b) (b) where the claimant satisfies the condition in paragraph 14(2)(b)—	
(i) in a case where there is someone in receipt of carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 14(5);	(b) (i) £45.50;
(ii) in a case where there is no one in receipt of such an allowance.	(b) (ii) £91.00.
(7) Disabled Child Premium.	(7) £43.89 in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of this Schedule is satisfied.
(8) Carer Premium.	(8) £25.80 in respect of each person who satisfies the condition specified in paragraph 17.
(9) Enhanced Disability Premium where the conditions in paragraph 15 are satisfied.	(9)
	(a) £17.71 in respect of each child or young person in respect of whom the conditions specified in paragraph 15 are satisfied;
	(b) £11.70 in respect of each person who is neither—

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<i>Premium</i>	<i>Amount</i>
	<ul style="list-style-type: none"> (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 15 are satisfied; (c) £16.90 where the claimant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 are satisfied in respect of a member of that couple or polygamous marriage.

SCHEDULE 4

Regulations 36(2) and 38(2)

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) where—
 - (i) the employment has been terminated because of retirement; and
 - (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions, any earnings in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;
- (b) where before the date of claim the employment has been terminated otherwise than because of retirement, any earnings in respect of that employment except earnings to which regulation 35(1)(b) to (e), (g) and (h) (earnings of employed earners) applies;
- (c) where at the date of claim—
 - (i) the employment has not been terminated; but
 - (ii) the claimant is not engaged in remunerative work, any earnings in respect of that employment except earnings to which regulation 35(1)(d), (e), (i) and (j) applies.

2. In the case of a claimant who, before the date of claim—

- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
- (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings in respect of that employment except—

- (i) where that employment has been terminated, earnings to which regulation 35(1)(e) applies;
- (ii) where that employment has not been terminated, earnings to which regulation 35(1)(e), (i) and (j) applies.

3.—(1) In a case to which this paragraph applies and paragraph 4 does not apply, £20; but notwithstanding regulation 25 (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 £20.

(2) This paragraph applies where the claimant's applicable amount includes an amount by way of the disability premium or severe disability premium under Schedule 3 (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 3 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 3; 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) or (3) to a disregard of £20; and
- (d) he or, if he is a member of couple, he or his partner has continued in employment.

(5) 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 housing benefit, community charge benefit or council tax benefit.

4. In a case where the claimant is a lone parent, £25.

5.—(1) In a case to which neither paragraph 3 nor paragraph 4 applies to the claimant, and subject to sub-paragraph (2), where the claimant's applicable amount includes an amount by way of the carer premium under Schedule 3 (applicable amounts), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 17(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the claimant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.

6. Where the carer premium is awarded in respect of a claimant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 8(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 5 exceed £20;
- (b) other than one specified in paragraph 8(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.

7. In a case where paragraphs 3, 5, 6 and 8 do 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 25 (calculation of income and capital of members of claimant's family and of a polygamous marriage),

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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.

8.—(1) In a case where paragraphs 3, 4, 5 and 6 do not apply to the claimant, £20 of earnings derived from one or more employments as—

- (a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004⁽²⁹⁾ or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005⁽³⁰⁾ or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001⁽³¹⁾;

but, notwithstanding regulation 25 (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 £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the claimant's earnings disregarded under this paragraph exceed £20.

9. Where the claimant is engaged in one of more employments specified in paragraph 8(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single 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 £20.

10. In a case to which none of the paragraphs 3 to 9 applies, £5.

11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 5 had the claimant's income which does not consist of earnings been sufficient to entitle him to the full disregarded thereunder.

12. Where a claimant is on income support or an income-based jobseeker's allowance, his earnings.

13. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

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

15. Any earnings of a child or young person.

(29) 2004 c. 21.

(30) 2005 asp 5, paragraph 8(1)(c) applies in Scotland only— see footnote (a) above.

(31) S.I. 2001/1004.

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

17.—(1) In a case where the claimant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 10 of this Schedule shall be increased by £14.50.

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

(a) the claimant, or if he is a member of a couple, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or

(b) the claimant—

(i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) is a member of a couple and—

(aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) his applicable amount includes a family premium under paragraph 3 of Schedule 3; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—

(aa) the claimant’s applicable amount includes a higher pensioner premium or a disability premium under paragraph 11 or 12 of Schedule 3 respectively; and

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the higher pensioner premium or disability premium referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or

(c) the claimant is, or, if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

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

(a) the amount to be disregarded from the claimant’s earnings under paragraphs 3 to 10 of this Schedule;

(b) the amount of child care charges calculated as deductible under regulation 28(1)(c); and

(c) £14.50.

(4) The provisions of regulation 6 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation were a reference to 30 hours.

SCHEDULE 5

Regulation 40

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

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

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

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

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

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

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

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

6. Any disability living allowance.

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

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

8. Any mobility supplement under article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983(32) (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(33) or any payment intended to compensate for the non-payment of such a supplement.

9. Any attendance allowance.

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

11.—(1) Any payment—

(a) by way of an education maintenance allowance made pursuant to—

- (i) regulations made under section 518 of the Education Act 1996(34) (payment of school expenses; grant of scholarships etc.);
- (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980(35) (power to assist persons to take advantage of educational facilities);
- (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992(36) (provision of financial assistance to students); or

(b) corresponding to such an education maintenance allowance, made pursuant to—

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

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

(34) 1996 c. 56; section 518 was substituted by the School Standards and Framework Act 1998 (c. 31), section 129.

(35) 1980 c. 44.

(36) 1992 c. 37.

- (i) section 14 or section 181 of the Education Act 2002⁽³⁷⁾ (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

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

12. Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002⁽³⁸⁾.

13.—(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990⁽³⁹⁾ except—

- (a) a payment made as a substitute for income support, a jobseeker's allowance, incapacity benefit or severe disablement allowance;
- (b) a payment of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (c) a payment intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed; or
- (d) for the purpose only of assessing entitlement to housing benefit in respect of a dwelling other than the one which the claimant normally occupies as his home, a payment made to a person to whom regulation 7(5)(b) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) applies to the extent that the payment is made in respect of the cost of living away from home.

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

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

14.—(1) Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;

⁽³⁷⁾ 2002 c. 32; section 14 was amended by the Education Act 2005 (c. 18), section 98 and Schedule 14, paragraph 23.

⁽³⁸⁾ S.I. 2002/2086.

⁽³⁹⁾ 1990 c. 35.

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

- (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the claimant; or
 - (ii) from funds derived from a payment made, in consequence of any personal injury to the claimant; or
 - (e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.
- (2) Sub-paragraph (1) shall not apply to a payment which is made or due to be made by—
- (a) a former partner of the claimant, or a former partner of any member of the claimant’s family; or
 - (b) the parent of a child or young person where that child or young person is a member of the claimant’s family.
- 15.** Subject to paragraph 34, £10 of any of the following, namely—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 8 or 9);
 - (b) a war widow’s pension or war widower’s pension;
 - (c) a pension payable to a person as a widow, widower or surviving civil partner under the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 1983⁽⁴⁰⁾ insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865⁽⁴¹⁾ or the Pensions and Yeomanry Pay Act 1884⁽⁴²⁾, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977⁽⁴³⁾ and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
- 16.** Subject to paragraph 34, £15 of any—
- (a) widowed mother’s allowance paid pursuant to section 37 of the Act;
 - (b) widowed parent’s allowance paid pursuant to section 39A of the Act⁽⁴⁴⁾.

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

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

⁽⁴⁰⁾ S.I. 1983/883

⁽⁴¹⁾ 1865 c. 73.

⁽⁴²⁾ 47 & 48 Vict c. 55.

⁽⁴³⁾ 1977 c. 5.

⁽⁴⁴⁾ Section 39A was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 (c. 30).

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
 - (b) any council tax or water charges which the claimant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of “water charges” in regulation 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as his home”.

18.—(1) Where a claimant receives income under an annuity purchased with a loan which satisfies the following conditions—

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

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

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988⁽⁴⁵⁾ (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

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

- (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998⁽⁴⁶⁾, that student’s award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980⁽⁴⁷⁾, that student’s bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student’s student loan,

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

⁽⁴⁵⁾ 1988 c. 1; subsection (1A) was inserted by the Finance Act 1994(c. 9), section 81(3).

⁽⁴⁶⁾ 1998 c. 30.

⁽⁴⁷⁾ 1980 c. 44.

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

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 or an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the claimant makes payments by way of a contribution towards the student’s maintenance, other than a parental contribution falling within paragraph 19, an amount specified in sub-paragraph (2) in respect of each week during the student’s term.

(2) For the purposes of sub-paragraph (1), the amount shall be equal to—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single claimant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

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

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

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and
- (b) a further £10.55, where the aggregate of any such payments is inclusive of an amount for heating.

23.—(1) Any income in kind, except where regulation 40(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.

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

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

- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002⁽⁴⁸⁾ or with a scheme approved by the Scottish Ministers under section 51 of the Adoption (Scotland) Act 1978⁽⁴⁹⁾ (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⁽⁵⁰⁾ (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence

⁽⁴⁸⁾ 2002 c. 38.

⁽⁴⁹⁾ 1978 c. 28.

⁽⁵⁰⁾ 1989 c. 41.

order) or, as the case may be, section 50 of the Children Act 1975**(51)** (payment towards maintenance of children);

- (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
- (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989**(52)** (special guardianship support services);

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

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

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

26. Any payment made by a local authority to the claimant with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 or, as the case may be, section 26 of the Children (Scotland) Act 1995**(53)** or by a voluntary organisation under section 59(1)(a) of the Children Act 1989 or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985**(54)** (provision of accommodation and maintenance for children by local authorities and voluntary organisations).

27. Any payment made to the claimant or his partner for a person ("the person concerned"), who is not normally a member of the claimant's household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948**(55)**; or
- (e) a primary care trust established under section 16A of the National Health Service Act 1977**(56)**.

28. Any payment made by a local authority in accordance with section 17, 23C or 24 of the Children Act 1989**(57)** or, as the case may be, section 12 of the Social Work (Scotland) Act 1968**(58)** or section 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

29.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

- (a) on a loan which is secured on the dwelling which the claimant occupies as his home; or

(51) 1975 c. 72.

(52) 1989 c. 41; section 14F was inserted by the Adoption and Children Act 2002.

(53) 1995 c. 36.

(54) S.I. 1985/1799.

(55) 1948 c. 29; subsection (3A) was inserted by the National Health Service and Community Care Act 1990 (c. 19).

(56) 1977 c. 49; section 16A was inserted by section 2 of the Health Act 1999(c. 8).

(57) 1989 c. 41; section 23C was inserted by the Children (Leaving Care) Act 2000 (c. 35), section 2(4).

(58) 1968 c. 49.

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

- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974⁽⁵⁹⁾ or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964⁽⁶⁰⁾.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
 - (b) meet any amount due by way of premiums on—
 - (i) that policy; or
 - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 30.** Any payment of income which by virtue of regulation 46 (income treated as capital) is to be treated as capital.
- 31.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).
- 32.** Any payment under Part 10 of the Act (Christmas bonus for pensioners).
- 33.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 34.** The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 25(2) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 60(2)(b) and regulation 61(1)(d) (calculation of covenant income where a contribution assessed), covenant income where no grant income or no contribution is assessed regulation 64(2) (treatment of student loans), regulation 65(3) (treatment of payments from access funds) and paragraphs 15 and 16 shall in no case exceed £20 per week.
- 35.—**(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust ("the Trusts"), the Fund, the Eileen Trust or the Independent Living Funds.
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced

⁽⁵⁹⁾ 1974 c. 39.

⁽⁶⁰⁾ 1964 c. 53; Part 3 was substituted by the Consumer Credit Act 1974 (c. 39), Schedule 4, paragraph 22.

or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

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

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

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

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

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, the Skipton Fund or the London Bombing Relief Charitable Fund.

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

37. Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983⁽⁶¹⁾.

(61) [S.I. 1983/1399](#).

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38. Any resettlement benefit which is paid to the claimant by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987⁽⁶²⁾.

39. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

40. Any community charge benefit.

41. Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992⁽⁶³⁾ (reduction of liability for council tax).

42.—(1) Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent. of such payments; or
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.

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

43. Any special war widows payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865⁽⁶⁴⁾;
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977;
- (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917⁽⁶⁵⁾;
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980⁽⁶⁶⁾;
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980;

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

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

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations⁽⁶⁷⁾ (travelling expenses and health service supplies);

⁽⁶²⁾ S.I. 1987/1683.

⁽⁶³⁾ 1992 c. 14.

⁽⁶⁴⁾ 1865 c. 73.

⁽⁶⁵⁾ 1917 c. 51, Queen’s Regulations for the Royal Air Force are available from HMSO.

⁽⁶⁶⁾ 1980 c. 9.

⁽⁶⁷⁾ S.I. 2003/2382, as amended by S.I. 2004/663, S.I. 2004/936 and S.I. 2005/26 and 578.

- (b) as respects Wales, under regulations 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(68) (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003(69) (travelling expenses and health service supplies).

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

45. Any payment made under regulation 6, 8, 12 or 14(2) of the Welfare Food Regulations 1996(70) (payments made in place of milk tokens or the supply of vitamins).

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

47.—(1) Where a claimant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by—

- (a) the claimant's former partner, or the claimant's partner's former partner; or
- (b) the parent of a child or young person where that child or young person is a member of the claimant's family except where that parent is the claimant or the claimant's partner.

(2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in head (a) or (b) of that sub-paragraph.

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

49. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(71) to assist disabled persons to obtain or retain employment despite their disability.

50. Any guardian's allowance.

51. Any council tax benefit.

52.—(1) Where the claimant is in receipt of any benefit under Parts 2, 3 or 5 of the Act or pension under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(72), any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act or the rate of that pension under that Order where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

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

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

(69) S.I. 2003/376.

(70) S.I. 1996/1434.

(71) 1944 c. 10.

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

Regulations 1996(73) shall be treated as an increase of a benefit under the Act arising under Part 4 of the Act.

53. Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(74) (pensions to widows, widowers or surviving civil partners).

54. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(75) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

55.—(1) Any payment which is—

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

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

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

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

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

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

57. Any payment made under the Community Care (Direct Payments) Act 1996(76) or under section 12B of the Social Work (Scotland) Act 1968(77) or under regulations made under section 57 of the Health and Social Care Act 2001(78) (direct payments).

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

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

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

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations(79).

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

(73) S.I. 1996/2567.

(74) S.I. 1983/883; the relevant amending instruments are S.I. 1994/1906 and 2005/1471.

(75) S.I. 1983/686; the relevant amending Instruments are S.I. 1994/2021 and 2002/672.

(76) 1996 c. 30.

(77) 1968 c. 48; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

(78) 2001 c. 15.

(79) Chapter 4A was inserted by S.I. 1998/1174.

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

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

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

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

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

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

62. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001⁽⁸⁰⁾.

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

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

SCHEDULE 6

Regulation 44

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, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding regulation 25 (calculation of income and capital of members of claimant’s family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. Any premises acquired for occupation by the claimant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part—

(a) by a partner or relative of a single claimant or any member of the family as his home where that person is either aged 60 or over or incapacitated;

⁽⁸⁰⁾ S.I. 2001/1167.

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

- (b) by the former partner of the claimant as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.

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

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

7. Any future interest in property of any kind, other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

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

(2) The assets of any business owned in whole or in part by the claimant where—

- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
- (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

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

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

9.—(1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraphs 6, 8 or 9 of Schedule 5;
- (b) an income-related benefit or supplementary benefit, family income supplement under the Family Income Supplement Act 1970⁽⁸¹⁾, working families' tax credit under section 128 of the Act, disabled person's tax credit under section 129 of the Act, or housing benefit under Part 1 of the Social Security and Housing Benefits Act 1982⁽⁸²⁾;
- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (e) working tax credit and child tax credit where such payment is made as a result of a change of circumstances,

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

⁽⁸¹⁾ 1970 c. 55.

⁽⁸²⁾ 1982 c. 24.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of housing benefit, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), “the award of housing benefit” means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the claimant—
 - (i) is the person who received the relevant sum; or
 - (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.

10. 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.

11. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985⁽⁸³⁾ or section 338(1) of the Housing (Scotland) Act 1987⁽⁸⁴⁾ 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.

12. 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 housing benefit or to increase the amount of that benefit.

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

14. 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.

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

⁽⁸³⁾ 1985 c. 69.

⁽⁸⁴⁾ 1987 c. 26.

16. The value of the right to receive any income which is disregarded under paragraph 11 of Schedule 4 or paragraph 24 of Schedule 5.

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

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

19. Any payment made by a local authority in accordance with section 17, 23C or 24A of the Children Act 1989⁽⁸⁵⁾ or, as the case may be, section 12 of the Social Work (Scotland) Act 1968⁽⁸⁶⁾ or sections 28 or 30 of the Children (Scotland) Act 1995⁽⁸⁷⁾ (provision of services for children and their families and advice and assistance to certain children).

20. Any social fund payment made pursuant to Part 8 of the Act.

21. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988⁽⁸⁸⁾ (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

22. Any capital which by virtue of regulation 41 or 64 (capital treated as income and treatment of student loans) is to be treated as income.

23. 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.

24.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), the Fund, the Eileen Trust, the Independent Living Funds, the Skipton Funds or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person’s partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person’s death;
- (b) any child who is a member of that person’s family or who was such a member and who is a member of the claimant’s family; or
- (c) any young person who is a member of that person’s family or who was such a member and who is a member of the claimant’s family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;

⁽⁸⁵⁾ 1989 c. 41.

⁽⁸⁶⁾ 1968 c. 49.

⁽⁸⁷⁾ 1995 c. 36.

⁽⁸⁸⁾ 1988 c. 1; section 369 was amended by the Finance Act 1993 (c. 34), section 58, the Finance Act 1994 (c. 9), section 81 and the Finance Act 1996 (c. 8), section 132 and Schedule 18.

- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

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

- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

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

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

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, the Skipton Fund or the London Bombings Relief Charitable Fund.

25.—(1) Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes any garage, garden and outbuildings, which were formerly occupied by the claimant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

26. 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.

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

27. 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.

28. 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 a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

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⁽⁸⁹⁾.

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

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

32. The value of any funds held under a personal pension scheme or retirement annuity contract.

33. The value of the right to receive any rent except where the claimant has a reversionary interest in the property in respect of which rent is due.

34. Any payment in kind made by a charity or under the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, or the Independent Living (1993) Fund.

35. Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.

36. Any community charge benefit.

37. Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

38. Any grant made to the claimant in accordance with a scheme made under section 129 of the Housing Act 1988⁽⁹⁰⁾ or section 66 of the Housing (Scotland) Act 1988⁽⁹¹⁾ (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(a) to purchase premises intended for occupation as his home; or

(b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

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

39. Any arrears of special war widows payment which is disregarded under paragraph 43 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 53, 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of the receipt of the arrears.

⁽⁸⁹⁾ S.I. 1983/1399.

⁽⁹⁰⁾ 1988 c. 50.

⁽⁹¹⁾ 1988 c. 43.

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

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations(92) (travelling expenses and health service supplies);
- (b) as respect Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(93) (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003(94) (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 made by the Secretary of State for Health, Scottish Ministers or the National Assembly for Wales, which is analogous to a payment or repayment mentioned in sub-paragraph (1); but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

41. Any payment made under regulation 6, 8, 12 or 14(2) of the Welfare Food Regulations 1996(95) (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.

42. Any payment made either by the Secretary of State for the Home Office or Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

43. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(96) or to assist disabled persons to obtain or retain employment despite their disability.

44. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(97) to homeworkers assisted under the Blind Homeworkers' Scheme.

45. Any sum of capital administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998(98), or the Court of Protection, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

46. Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995(99) or under Rule 36.14 of the Ordinary Cause Rules 1993(100) or under Rule 128 of those Rules, where such sum derives from—

- (a) award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

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

(93) S.I. 1988/551; the relevant amending Instruments are S.I. 1989/394, 1990/918, 1991/557, 1992/1104.

(94) S.I. 2003/376.

(95) S.I. 1996/1434.

(96) 1944 c. 10 (7 & 8 Geo. 6).

(97) 1958 c. 33.

(98) S.I. 1998/3132.

(99) 1995 c. 36.

(100) First Schedule to the Sheriff Courts (Scotland) Act 1907(c. 51) as substituted in respect of causes commenced on or after 1 January 1994 by S.I. 1993/1956.

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

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

48. The amount of any child maintenance bonus payable by way of jobseeker's allowance or income support in accordance with section 10 of the Child Support Act 1995(101), or a corresponding payment under Article 4 of the Child Support (Northern Ireland) Order 1995(102), but only for a period of 52 weeks from the date of receipt.

49. In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

50.—(1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

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

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

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

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

51.—(1) Any payment—

(a) by way of an education maintenance allowance made pursuant to—

(i) regulations made under section 518 of the Education Act 1996(103) (payment of school expenses; grant of scholarships etc);

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980(104) (power to assist persons to take advantage of educational facilities);

(iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992(105) (provision of financial assistance to students); or

(b) corresponding to such an education maintenance allowance, made pursuant to—

(i) section 14 or section 181 of the Education Act 2002(106) (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training);
or

(ii) regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

(a) regulations made under section 518 of the Education Act 1996(107);

(b) regulations made under section 49 of the Education (Scotland) Act 1980; or

(101) 1995 c. 34.

(102) S.I. 1995/2702.

(103) 1996 c. 56.

(104) 1980 c. 44.

(105) 1992 c. 37.

(106) 2002 c. 32.

(107) 1996 c. 30; section 518 was substituted by the School Standards and Framework Act 1998 (c. 31), section 129.

(c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

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

52. In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

53. Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

54. Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—

- (a) the claimant;
- (b) the claimant's partner;
- (c) the claimant's deceased spouse or deceased civil partner; or
- (d) the claimant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

55.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of a claimant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the time of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 19,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to a claimant or a member of a claimant's family who is—

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

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

- (4) Where a payment as referred to in sub-paragraph (3) is made to—
 - (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
 - (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 19,
 whichever is the latest.

- (5) In this paragraph, a reference to a person—
 - (a) being the diagnosed person's partner;
 - (b) being a member of a diagnosed person's family;
 - (c) acting in place of the diagnosed person's parents,

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

- (6) In this paragraph—
 - “diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;
 - “relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
 - “trust payment” means a payment under a relevant trust.

56. The amount of any payment, other than a war pension within the meaning of section 25 of the Social Security Act 1989(**108**), to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or deceased civil partner or the claimant's partner's deceased spouse or deceased civil partner—

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or

(108)1989 c. 24.

(c) was a parent of a child who had died,
during the Second World War.

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

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

58. Any payment made under the Community Care (Direct Payments) Act 1996(**109**), or regulations made under section 57 of the Health and Social Care Act 2001(**110**) or under section 12B of the Social Work (Scotland) Act 1968(**111**).

59. Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002(**112**).

60. Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989(**113**) (special guardianship support services).

SCHEDULE 7

Regulation 72 and 80(7)

Extended payments of housing benefit

PART 1

Conditions for an extended payment

1. The conditions prescribed in this paragraph are that the Secretary of State has certified to the relevant authority—

- (a) that the claimant or his partner was entitled to and in receipt of income support or an income-based jobseeker’s allowance or that the claimant and his partner were entitled to and in receipt of a joint-claim jobseeker’s allowance and that entitlement has ceased;
- (b) the relevant day in his case;
- (c) that entitlement to income support or an income-based jobseeker’s allowance had ceased by reason of the claimant or his partner—
 - (i) commencing employment as an employed or self-employed earner; or
 - (ii) increasing their earnings from such employment; or
 - (iii) increasing the number of hours worked in such employment; and
- (d) that the claimant had been entitled to and in receipt of income support or a jobseeker’s allowance for a continuous period of at least 26 weeks until the relevant day, and for the purpose of this head—
 - (i) a claimant satisfies the conditions of this sub-paragraph if he has been entitled to and in receipt of a combination of income support and a jobseeker’s allowance for at least 26 weeks and for the purposes of this sub-paragraph, a reference to the

(109) 1996 c. 30.

(110) 2001 c. 15.

(111) 1968 c. 48; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

(112) 2002 c. 38.

(113) 1989 c. 41; section 14F was inserted by the Adoption and Children Act 2002 (c. 38), section 115(1).

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

claimant being entitled to and in receipt of a jobseeker's allowance shall include a reference to the claimant and his partner being entitled to and in receipt of a joint-claim jobseeker's allowance;

(ii) the claimant shall be treated as having been entitled to and in receipt of income support or a jobseeker's allowance during any period of less than 5 weeks in respect of which he was not entitled to either of those benefits because, as a consequence of his participation in an employment zone programme, he was engaged in remunerative work; and

(iii) references to the claimant include references to his partner.

2. The conditions prescribed in this paragraph are that the claimant or the claimant's partner—
- (a) notifies either the designated office or an appropriate DWP office that he or his partner—
 - (i) has commenced, or is about to commence, remunerative work;
 - (ii) has commenced, or is about to commence, receiving remuneration for work or an increased amount of remuneration for work; or
 - (iii) has commenced, or is about to commence, an increased number of hours of work, so that entitlement to income support or to an income-based jobseeker's allowance ceases and that work or, as the case may be, remuneration, is expected to last 5 weeks or more; and
 - (b) makes that notification no later than 4 weeks after the day on which the claimant or his partner first undertakes the remunerative work referred to in sub-paragraph (a)(i) or first receives remuneration for the work or an increased amount of remuneration for the work referred to in sub-paragraph (a)(ii), or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii).

PART 2

Calculation and payment of an extended payment

3.—(1) Subject to the following provisions of this paragraph and except in the case of a mover, the amount of the extended payment shall be equal to the amount of housing benefit which was payable to the claimant for the last benefit week before he ceased to be entitled to housing benefit.

(2) In a case where the last benefit week referred to in sub-paragraph (1) fell, in whole or in part, within a rent free period, the last benefit week for the purposes of that sub-paragraph shall be taken to be the last benefit week that did not fall within a rent free period.

(3) Where the last benefit week before he ceased to be entitled to housing benefit was a week in which the claimant's eligible rent was calculated in accordance with regulation 80(4)(c) (claimant ceases to occupy the dwelling as his home), sub-paragraph (1) shall have effect as if the reference to the last benefit week before he ceased to be entitled to housing benefit was a reference to the week before that week.

(4) Subject to sub-paragraph (5) the extended payment shall be payable for each of the weeks in the period specified in regulation 72(6) and shall be paid at such time and in such manner as is appropriate, having regard to—

- (a) the times at which and the frequency with which a person's liability to make payment of rent arises; and
- (b) the reasonable needs and convenience of the person entitled thereto.

(5) No extended payment shall be payable for a week which is a rent free period for the purposes of regulation 81(1).

Movers

4. Paragraphs 5 to 7 below apply to movers from—
- (a) the day the move takes place where that day is a Monday; or
 - (b) from the Monday following the day the move takes place where that day is not a Monday.

Movers and rent allowances

5.—(1) Subject to sub-paragraph (2), in the case of a mover whose housing benefit was in the form of a rent allowance, the authority which, prior to the mover ceasing to be entitled to housing benefit, was paying that allowance, shall make an extended payment to that mover calculated on the same basis as in paragraph 3 and, for these purposes, the mover shall be treated as continuing to occupy and be liable to make payments in respect of the dwelling he was occupying as his home immediately before he ceased to be entitled to housing benefit.

(2) Notwithstanding sub-paragraph (1), in a case where that mover's liability to make payments in respect of the second dwelling would be to a housing authority, any extended payment shall be made by that housing authority and shall be determined as provided in paragraph 7(b).

Movers and rent rebates

6. Where, in a case of a mover—
- (a) his housing benefit was in the form of a rent rebate; and
 - (b) he claims an extended payment,

the authority in which the second dwelling is situated or, as the case may be, where the mover's liability to make payments in respect of the second dwelling is to a housing authority, that housing authority, shall upon receiving the mover's claim for an extended payment, which meets the requirements of regulation 72(1), make an extended payment, calculated in accordance with paragraph 7, to that mover.

Movers and extended payments

7. In a case to which paragraph 5(2) or 6 applies and a mover's liability referred to in that paragraph is—

- (a) other than to a housing authority, the extended payment shall be a payment by way of rent allowance calculated in accordance with paragraph 3;
- (b) to a housing authority, the extended payment shall be by way of a rent rebate to the value of such part of the rent in respect of the period specified in regulation 72(6) as is eligible for housing benefit, calculated in accordance with regulations 11 to 13, less, in a case where the rebate to which paragraph 6 refers, or the rent allowance to which paragraph 5 refers, as the case may be, was subject to any deductions in respect of non-dependants pursuant to regulations 70 (maximum housing benefit) and 74 (non-dependant deductions), the amount of those deductions.

Maximum housing benefit

8. In a case to which sub-paragraph 7(b) applies the maximum housing benefit of a mover shall be calculated in accordance with regulation 70, save that no deduction shall be made in respect of non-dependants, other than any that fall to be taken into account pursuant to that sub-paragraph.

Movers with two homes

9. Subject to Part 3 of this Schedule, any extended payment under this Part shall be without prejudice to any entitlement the claimant may have pursuant to regulation 7(6) (liability to make payments in respect of two homes).

PART 3

Adjustment of entitlement in respect of an extended payment

10. Where for any week—

- (a) a person is entitled to an extended payment; and
- (b) he also claims and is awarded housing benefit,

then the amount of the housing benefit payable in respect of that week shall be reduced by a sum equal to the amount of the extended payment and only the balance (if any) shall be payable to him for that week.

PART 4

Interpretation

11. In this Schedule—

“claimant” means a person claiming an extended payment;

“mover” means a claimant who changes the dwelling which he occupies as his home in respect of which he is liable or treated as liable to make payments;

“the relevant day” means the day on which the claimant’s entitlement to income support or an income-based jobseeker’s allowance ceased; and

“second dwelling” means the dwelling to which a person has moved or is about to move which he is or will be occupying as his new home, and where the liability to make payments of rent in respect of his dwelling follows on immediately from the liability to make payments in respect of rent of his previous dwelling.

SCHEDULE 8

Regulation 73

Extended Payments (severe disablement allowance and incapacity benefit) of housing benefit

Condition for an extended payment (severe disablement allowance and incapacity benefit)

1. The condition prescribed in this paragraph is that the claimant or the claimant’s partner—

- (a) notifies either the designated office or an appropriate DWP office that he or his partner—
 - (i) has commenced, or is about to commence, remunerative work;
 - (ii) has commenced, or is about to commence, receiving remuneration for work or an increased amount of remuneration for work; or
 - (iii) has commenced, or is about to commence, an increased number of hours of work,so that entitlement to severe disablement allowance or incapacity benefit ceases and that work, or as the case may be, remuneration, is expected to last 5 weeks or more; and

- (b) the notification is made no later than 4 weeks after the day on which the claimant or his partner first undertakes the remunerative work referred to in sub-paragraph (a)(i), first receives remuneration for the work or an increased amount of remuneration for the work referred to in sub-paragraph (a)(ii), or first commences the increased number of hours of work referred to in sub-paragraph (a)(iii).

Calculation and payment of an extended payment (severe disablement allowance and incapacity benefit)

2.—(1) Subject to the following provisions of this paragraph and except in the case of a mover, the amount of the extended payment (severe disablement allowance and incapacity benefit) shall be equal to the amount of housing benefit which was payable to the claimant for the last benefit week before he ceased to be entitled to housing benefit.

(2) In a case where the last benefit week referred to in sub-paragraph (1) fell, in whole or in part, within a rent free period, the last benefit week for the purposes of that sub-paragraph shall be taken to be the last benefit week that did not fall within a rent free period.

(3) Where the last benefit week before he ceased to be entitled to housing benefit was a week in which the claimant's eligible rent was calculated in accordance with regulation 80(4)(c) (claimant ceases to occupy the dwelling as his home), sub-paragraph (1) shall have effect as if the reference to the last benefit week before he ceased to be entitled to housing benefit was a reference to the week before that week.

(4) Subject to sub-paragraph (5), the extended payment (severe disablement allowance and incapacity benefit) shall be payable for each of the weeks in the period specified in regulation 73(6) (a), and shall be paid at such time and in such manner as is appropriate, having regard to—

- (a) the times at which and the frequency with which a person's liability to make payment of rent arises; and
- (b) the reasonable needs and convenience of the person entitled thereto.

(5) No extended payment (severe disablement allowance and incapacity benefit) shall be payable for a week which is a rent free period for the purposes of regulation 81(1).

Movers

3. Paragraphs 4 to 6 below apply to movers from—

- (a) the day the move takes place where that day is a Monday; or
- (b) the Monday following the day the move takes place where that day is not a Monday.

Movers and rent allowances.

4.—(1) Subject to sub-paragraph (2), in the case of a mover whose housing benefit was in the form of a rent allowance, the authority which, prior to the mover ceasing to be entitled to housing benefit, was paying that allowance, shall make an extended payment (severe disablement allowance and incapacity benefit) to that mover calculated on the same basis as in paragraph 2, and, for these purposes, the mover shall be treated as continuing to occupy and be liable to make payments in respect of the dwelling he was occupying as his home immediately before he ceased to be entitled to housing benefit.

(2) Notwithstanding sub-paragraph (1), in a case where that mover's liability to make payments in respect of the second dwelling would be to a housing authority, any extended payment (severe disablement allowance and incapacity benefit) shall be made by that housing authority and shall be determined as provided in paragraph 6(b).

Movers and rent rebates

5. Where, in the case of a mover—

- (a) his housing benefit was in the form of a rent rebate; and
- (b) he claims an extended payment (severe disablement allowance and incapacity benefit),

the authority in which the second dwelling is situated, or as the case may be, where the mover's liability to make payments in respect of the second dwelling is to a housing authority, that housing authority, shall upon receiving the mover's claim for an extended payment (severe disablement allowance and incapacity benefit), which meets the requirements of regulation 73(1), make an extended payment (severe disablement allowance and incapacity benefit), calculated in accordance with paragraph 6, to that mover.

Movers and extended payments (severe disablement allowance and incapacity benefit)

6. In a case to which paragraph 4(2) or 5 applies and where a mover's liability referred to in that paragraph is—

- (a) other than to a housing authority, the extended payment (severe disablement allowance and incapacity benefit) shall be a payment by way of rent allowance calculated in accordance with paragraph 2;
- (b) to a housing authority, the extended payment (severe disablement allowance and incapacity benefit) shall be by way of a rent rebate to the value of the lesser of—
 - (i) such part of the rent in respect of the period specified in regulation 73(6)(a) as is eligible for housing benefit, calculated in accordance with regulations 11 to 13, less, in a case where the rebate to which paragraph 5 refers, or the rent allowance to which paragraph 4 refers, as the case may be, was subject to any deductions in respect of non-dependants pursuant to regulations 70 and 74, the amount of those deductions; or
 - (ii) the amount of extended payment (severe disablement allowance and incapacity benefit) calculated in accordance with paragraph 2.

Maximum housing benefit

7. The maximum housing benefit of a mover the amount of whose extended payment (severe disablement allowance and incapacity benefit) is calculated in accordance with paragraph 6(b)(i) shall be calculated in accordance with regulation 70, save that no deduction shall be made in respect of non-dependants, other than any that fall to be taken into account pursuant to paragraph 6(b)(i).

Movers with two homes

8. Subject to paragraph 9, any extended payment (severe disablement allowance and incapacity benefit) shall be without prejudice to any entitlement the claimant may have pursuant to regulation 7(6) (liability to make payments in respect of two homes).

Adjustment of entitlement in respect of an extended payment (severe disablement allowance and incapacity benefit)

9. Where for any week—

- (a) a person is entitled to an extended payment (severe disablement allowance and incapacity benefit); and
- (b) he also claims and is awarded housing benefit,

then the amount of the housing benefit payable in respect of that week shall be reduced by a sum equal to the amount of the extended payment (severe disablement allowance and incapacity benefit) and only the balance, if any, shall be payable to him for that week.

Interpretation

10. In this Schedule—

“claimant” means a person claiming an extended payment (severe disablement allowance and incapacity benefit);

“mover” means a claimant who changes the dwelling which he occupies as his home in respect of which he is liable or treated as liable to make payments;

“second dwelling” means the dwelling to which a person has moved, or is about to move, which he is or will be occupying as his new home, and where the liability to make payments of rent in respect of his dwelling follows on immediately from the liability to make payments of rent in respect of his previous dwelling.

SCHEDULE 9

Regulation 90

Matters to be included in decision notice

PART 1

General

1. The statement of matters to be included in any decision notice issued by a relevant authority to a person, and referred to in regulation 90 (notification of decisions) and in regulation 10 of the Decisions and Appeals Regulations are those matters set out in the following provisions of this Schedule.

2. Every decision notice shall include a statement as to the right of any person affected by that decision to request a written statement under regulation 90(2) (requests for statement of reasons) and the manner and time in which to do so.

3. Every decision notice shall include a statement as to the right of any person affected by that decision to make an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations and, where appropriate, to appeal against that decision and the manner and time in which to do so.

4. Every decision notice following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations shall include a statement as to whether the original decision in respect of which the person made his representations has been confirmed or revised and where the relevant authority has not revised the decision the reasons why not.

5. Every decision notice following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations shall, if the original decision has been revised, include a statement as to the right of any person affected by that decision to apply for a revision in accordance with regulation 4(1)(a) of those Regulations and the manner and time in which to do so.

6. An authority may include in the decision notice 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.

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7. Parts 2, 3 and 6 of this Schedule shall apply only to the decision notice given on a claim.
8. Where a decision notice is given following a revision of an earlier decision—
 - (a) made of the authority's own motion which results in a revision of that earlier decision; or
 - (b) made following an application for a revision in accordance with regulation 4(1)(a) of the Decisions and Appeals Regulations, whether or not resulting in a revision of that earlier decision,that notice shall, subject to paragraph 6, contain a statement only as to all the matters revised.

PART 2

Awards where income support or an income-based jobseeker's allowance is payable

9. Where a person on income support or an income-based jobseeker's allowance is awarded housing benefit, the decision notice shall include a statement as to—
 - (a) his weekly eligible rent, if any; and
 - (b) the amount and an explanation of any deduction made under paragraph 6(2) or (3) of Schedule 1 (fuel deductions), if any, and that the deduction may be varied if he provides to the authority evidence on which it may estimate the actual or approximate amount of that service charge; and
 - (c) the amount of and the category of non-dependant deductions made under regulation 74, if any; and
 - (d) the normal weekly amount of rent allowance, or rent rebate as the case may be, to which he is entitled; and
 - (e) in the case of a rent allowance or a rent rebate paid as if it were a rent allowance, the day of payment, and the period in respect of which payment of that allowance is to be made; and
 - (f) the first day of entitlement to an allowance or rebate; and
 - (g) his duty to notify any change of circumstances which might affect his entitlement to, or the amount of, housing benefit and (without prejudice to the extent of the duty owed under regulation 88 (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 and without charge.

PART 3

Awards where no income support or an income-based jobseeker's allowance is payable

10. Where a person is not on income support or on an income-based jobseeker's allowance but is awarded housing benefit, the decision notice shall include a statement as to—
 - (a) the matters set out in paragraph 9; and
 - (b) his applicable amount and how it is calculated; and
 - (c) his weekly earnings; and
 - (d) his weekly income other than earnings.

PART 4

Awards where direct payments made to landlords

11. Where a decision has been made under regulation 95 or 96 (circumstances in which payment is to be made, or may be made, direct to a landlord), the decision notice shall include a statement—

- (a) as to the amount of housing benefit which is to be paid direct to the landlord and the date from which it is to be paid; and
- (b) informing the landlord of the duty imposed upon him to notify the local authority of—
 - (i) any change in circumstances which might affect the claimant's entitlement to housing benefit, or the amount of housing benefit payable in his case; and
 - (ii) the kind of change of circumstances which is to be notified;
- (c) informing both landlords and claimants that where a payment of housing benefit is recoverable from a landlord and the recovery is made from housing benefit payable to the landlord to discharge (in whole or in part) an obligation owed to him by a claimant, then, in a case where that claimant is not the person on whose behalf the recoverable amount was paid, that obligation shall nonetheless be taken to be discharged by the amount so recovered,

and the notice shall be sent both to the claimant and to the landlord.

12. In this Schedule, "landlord" has the same meaning as in regulation 95.

PART 5

Notice where income of non-dependant is treated as claimant's

13. Where an authority makes a decision under regulation 26 (circumstances in which income and capital of a non-dependant is to be treated as claimant's) the decision notice shall contain a statement as to—

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

PART 6

Notice where no award is made

14. Where a person is not awarded housing benefit—

- (a) either on grounds of income or because the amount of any housing benefit is less than the minimum housing benefit prescribed by regulation 75, the decision notice shall include a statement as to—
 - (i) the matters set out in paragraphs 9(a) to (c), and in a case where the amount of entitlement is less than the minimum amount of housing benefit prescribed, paragraph 9(d) also; and
 - (ii) the matters set out in paragraphs 10(b) to (d) where the person is not on income support or an income-based jobseeker's allowance; and
 - (iii) where the amount of entitlement is less than the minimum amount of housing benefit prescribed, that fact and that such entitlement is not payable;

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- (b) for any reason other than one mentioned in sub-paragraph (a), the decision notice shall include a statement as to the reason why no award has been made.

PART 7

Notice where recoverable overpayment

15.—(1) Where the appropriate authority makes a decision that there is a recoverable overpayment within the meaning of regulation 100 (recoverable overpayments), the decision notice shall include a statement as to—

- (a) the fact that there is a recoverable overpayment; and
- (b) the reason why there is a recoverable overpayment; and
- (c) the amount of the recoverable overpayment; and
- (d) how the amount of the recoverable overpayment was calculated; and
- (e) the benefit weeks to which the recoverable overpayment relates; and
- (f) where recovery of the recoverable overpayment is to be made by deduction from a rent allowance or rebate, as the case may be, that fact and the amount of the deduction.

(2) In a case where it is—

- (a) determined that there is a recoverable overpayment;
- (b) determined that that overpayment is recoverable from a landlord; and
- (c) decided that recovery of that overpayment is to be made by deduction from a rent allowance paid to that landlord to discharge (in whole or in part) an obligation owed to him by a claimant (“claimant A”), not being the claimant on whose behalf the recoverable amount was paid,

the decision notice sent to that landlord shall identify both—

- (i) the person on whose behalf the recoverable amount was paid to that landlord; and
- (ii) claimant A.

SCHEDULE 10

Regulation 122

Pathfinder authorities

PART 1

Commencement date in relation to each pathfinder authority

Pathfinder authority	Commencement date
Argyll and Bute	30th May 2005
Blackpool	17th November 2003
Brighton and Hove	2nd February 2004
Conwy	9th February 2004
Coventry	12th January 2004

Pathfinder authority	Commencement date
East Riding of Yorkshire	18th April 2005
Edinburgh	9th February 2004
Guildford	4th July 2005
Leeds	9th February 2004
Lewisham	1st December 2003
North East Lincolnshire	9th February 2004
Norwich	13th June 2005
Pembrokeshire	20th June 2005
St Helens	23rd May 2005
Salford	25th July 2005
South Norfolk	6th June 2005
Teignbridge	12th January 2004
Wandsworth	11th April 2005

PART 2

Application of the Regulations

1. These Regulations shall apply to pathfinder authorities subject to the provisions of this Part of this Schedule.

2. In regulation 2(1) (interpretation), at the appropriate places, insert—

““amended determination” means a determination made in accordance with article 7A of the Rent Officers Order(**114**);

“broad rental market area” has the meaning specified in paragraph 4 of Part 1 of Schedule 3A to the Rent Officers Order(**115**);

“broad rental market area determination” means a determination made in accordance with article 4B(1) of the Rent Officers Order(**116**);

“commencement date” means in relation to a pathfinder authority specified in Part 1 of Schedule 10, the date specified in that Part in relation to that authority;

“local housing allowance” means an allowance determined in accordance with paragraph 2 or 3 of Part 1 of Schedule 3A to the Rent Officers Order;

“local housing allowance determination” means a determination made in accordance with article 4B(2) of the Rent Officers Order;

“maximum rent (standard local rate)” means the amount determined in accordance with regulation 13A;

“pathfinder authority” means a relevant authority specified in Part 1 of Schedule 10;

“relevant date” means, as the case may require—

(114) Article 7A was inserted by [S.I. 2000/1](#) and amended by [S.I. 2003/2398](#).

(115) Schedule 3A was inserted by [S.I. 2003/2395](#).

(116) Article 4B was inserted by [S.I. 2003/2395](#).

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- (a) the commencement date in relation to a pathfinder authority specified in Part 1 of Schedule 10;
- (b) the date of the claim to which the claim or relevant information relates;
- (c) the date of the change relating to a rent allowance, or the change which affects the category of dwelling, date of death or rent increase, to which a notification referred to in regulation 13A(1)(b)(iii) or (iv) relate; or
- (d) the date on which the period mentioned in regulation 14 (1)(f) or (g) has elapsed.”.

Amendment of regulation 11

3. In regulation 11(1) (eligible housing costs), for the words “regulations 12(3),” to the end of the paragraph substitute “regulations 12 and 13 or regulations 12 and 13A, whichever is applicable in his case”.

Insertion of regulation 11A

4. After regulation 11(eligible housing costs), insert the following regulation—

“Cases where maximum housing benefit expires

11A. A maximum housing benefit shall not have effect for any benefit week which begins on or after the day which is the first anniversary of the day by reference to which the local housing allowance most recently applicable for the purpose of determining that maximum housing benefit in accordance with regulation 12A(1) to (9) was identified.”.

Amendment of regulation 12

5. In regulation 12(3)(b), after the words “except where sub-paragraph (a)”, insert “or regulation 12A(1), (3) or (4)”.

Insert regulation 12A

6. After regulation 12 (rent), insert the following regulation—

“Eligible rent and the maximum rent (standard local rate)

12A.—(1) Where, by virtue of paragraph (1) of regulation 13A, a maximum rent (standard local rate) has been, or falls to be, determined in accordance with that regulation, then, except where paragraph (3)(a)(ii), (b)(ii) or (c)(ii), (4)(a) or (6)(a) applies—

- (a) the amount of a person’s eligible rent shall be the maximum rent (standard local rate); and
- (b) it shall apply until the earlier of—
 - (i) the determination of a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(iv); or
 - (ii) the determination of a maximum rent (standard local rate) which relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in sub-paragraph (a), was identified.

(2) This paragraph applies where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A(1)(a) or (b)(i), (ii) or (iii)

(aa) or (c) and the claimant has been continuously entitled to and in receipt of housing benefit in respect of the dwelling he occupies as his home for a period which includes the commencement date.

(3) Where paragraph (2) applies, subject to paragraph (9)—

(a) except where sub-paragraph (b) or (c) applies, the amount of a person's eligible rent shall be—

(i) the eligible rent determined in accordance with paragraph (1) where that is not less than the eligible rent which applied on the day before the relevant date; or

(ii) the eligible rent which applied on the day before the relevant date;

(b) where the eligible rent to which the person was entitled on the day before the relevant date was determined by reference to a maximum rent determined in accordance with regulation 13(11)(b), the person's eligible rent shall be—

(i) the eligible rent determined in accordance with paragraph (1), where that is not less than the eligible rent which applied on the day before the relevant date; or

(ii) the eligible rent which applied on the day before the relevant date; or

(c) where the eligible rent to which the person was entitled on the day before the relevant date was, by virtue of regulation 13(14), determined in accordance with regulation 12(3)(b), the person's eligible rent shall be—

(i) the eligible rent determined in accordance with paragraph (1), where that is not less than the eligible rent which applied on the day before the relevant date; or

(ii) the eligible rent which applied on the day before the relevant date.

(4) Subject to paragraph (9), where the pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(i), (ii) or (iv)(aa) to (cc) and the claimant occupies a dwelling which is the same as that occupied by him at the date of death of any person to whom any of sub-paragraphs (b) to (d) of paragraph (8) applied or, had a claim been made, would have applied, the eligible rent shall be—

(a) either—

(i) the eligible rent which applied on the day before the death occurred; or

(ii) in a case where there was no eligible rent, subject to regulation 12(4) and (7), the reckonable rent due on that day; or

(b) the eligible rent determined in accordance with paragraph (1), where it is not less than the eligible rent determined in accordance with sub-paragraph (a).

(5) For the purpose of paragraph (4), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose that paragraph (13) shall have effect as if sub-paragraph (b) of that paragraph were omitted.

(6) Subject to paragraphs (7) and (9), where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(i) or (ii) and the pathfinder authority is satisfied that a person to whom paragraph (8) applies was able to meet the financial commitments for his dwelling when they were entered into, the eligible rent shall be—

(a) an eligible rent determined in accordance with regulation 12(3)(b); or

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(b) the eligible rent determined in accordance with paragraph (1), where it is not less than the eligible rent referred to in sub-paragraph (a).

(7) Paragraph (6) shall not apply in the case of any claim for housing benefit where the claimant was previously entitled to housing benefit in respect of any period which ended less than 52 weeks before the commencement of the period to which the claim relates.

(8) This paragraph applies to the following persons—

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

(9) Where a person's eligible rent has been determined in accordance with—

- (a) paragraph (3)(a)(ii), it shall continue to apply until such time as the pathfinder authority determines an eligible rent—
 - (i) in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd); or
 - (ii) where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in paragraph (3)(a)(i) was identified, which is equal to or exceeds it,

whichever first occurs;

(b) paragraph (3)(b)(ii), and—

- (i) the pathfinder authority determined a maximum rent (standard local rate) following receipt of a notification of change relating to a rent allowance that falls within paragraph 2(3)(a) of Schedule 2 as a result of the death of one of the occupiers to whom any of sub-paragraphs (b) to (d) of regulation 13(11) applied, it shall continue to apply until—
 - (aa) the period of 12 months from the date of death has expired; or
 - (bb) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd),

whichever first occurs; or

(ii) in any other case, it shall continue to apply until—

- (aa) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or
- (bb) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd),

- whichever first occurs;
- (c) paragraph (3)(c)(ii), it shall continue to apply until—
- (i) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or
 - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd), whichever first occurs;
- (d) paragraph (4)(a), it shall continue to apply until—
- (i) the period of 12 months from the date of death has expired; or
 - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd), whichever first occurs;
- (e) paragraph (6)(a), it shall continue to apply until—
- (i) the first 13 weeks of the claimant’s award of housing benefit have expired; or
 - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd), whichever first occurs; and
- (f) paragraph (1)(b)(ii), or sub-paragraph (a)(ii) or this sub-paragraph, that eligible rent (“the earlier eligible rent”) shall continue to apply until—
- (i) the determination of a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(iv); or
 - (ii) the determination of an eligible rent where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the earlier eligible rent was identified, whichever first occurs.
- (10) Where an eligible rent ceases to apply by virtue of sub-paragraph (b)(i)(aa), (b)(ii)(aa), (c)(i), (d)(i) or (e)(i) of paragraph (9), the eligible rent that shall apply instead shall be the one which would have applied but for paragraphs (3)(b)(ii), (3)(c)(ii), (4)(a) and (6)(a).
- (11) In paragraph (4) “reckonable rent” has the same meaning as in regulation 13.”

Insertion of regulations 13A and 13B

7. After regulation 13 (maximum rent) insert the following regulations—

“Maximum rent (standard local rate)

13A.—(1) Subject to paragraph (2), where—

- (a) the relevant authority is a pathfinder authority specified in Part I of Schedule 10 and it is the commencement date for that pathfinder authority; or
- (b) a pathfinder authority has received—

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- (i) a claim on which a rent allowance may be awarded, where the date of claim falls on or after the commencement date;
 - (ii) relevant information regarding a claim on which a rent allowance may be awarded, where the date of claim falls on or after the commencement date;
 - (iii) in relation to an award of housing benefit where the maximum rent was determined in accordance with regulation 13—
 - (aa) a notification of a change relating to a rent allowance where the change occurs on or after the commencement date; or
 - (bb) a notification of a change of dwelling where the change occurs on or after 9th April 2004; or
 - (iv) in relation to an award of housing benefit where a maximum rent (standard local rate) was determined in accordance with this regulation—
 - (aa) notification of a change of a kind which affects the category of dwelling applicable to the claim;
 - (bb) notification of the death of an occupier of the dwelling to whom any of sub-paragraphs (b) to (d) of regulation 12A(8) applies, where the notification does not fall within sub-head (aa);
 - (cc) notification that there has been a rent increase under a term of the tenancy to which the claim relates and the term under which that increase was made was either included in the tenancy at the date of the claim or is a term substantially the same as such a term; or
 - (dd) notification of a change of dwelling;
 - (c) a pathfinder authority is required to apply to a rent officer for a determination in accordance with regulation 14(1)(f) or (g),
the pathfinder authority shall determine a maximum rent (standard local rate) in accordance with paragraphs (3) to (8).
- (2) Paragraph (1) shall not apply in a case where—
- (a) the landlord is a registered social landlord;
 - (b) paragraph 4(1)(b) of Schedule 3 to the Consequential Provisions Regulations applies;
 - (c) the tenancy is an excluded tenancy of a type falling within any of paragraphs 4 to 10 of Schedule 2;
 - (d) the claim or award relates to—
 - (i) periodical payments of a kind falling within regulation 12(1) which a person is liable to make in relation to a houseboat, caravan or mobile home which he occupies as his home; or
 - (ii) rent payable in relation to a hostel; or
 - (e) rent under the tenancy is attributable to board and attendance, and—
 - (i) the pathfinder authority has made an application to the rent officer in accordance with paragraph (6), regulation 15 or 17; and
 - (ii) the rent officer has determined that a substantial part of the rent under the tenancy is fairly attributable to board and attendance and has notified the

- pathfinder authority of this in accordance with article 4C, 4D or 4E of the Rent Officers Order(117).
- (3) The maximum rent (standard local rate) shall be the local housing allowance determined by the rent officer which is applicable to—
- (a) the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date; and
 - (b) the category of dwelling—
 - (i) specified in paragraph 1(1)(a) of Part 1 of Schedule 3A to the Rent Officers Order where—
 - (aa) the claimant is a young individual who has no non-dependant residing with him and to whom paragraph 14 of Schedule 3 (severe disability premium) does not apply; or
 - (bb) the category of dwelling specified in paragraph 1(1)(b) of Part 1 of Schedule 3A to the Rent Officers Order would apply in the claimant's case but neither requirement in head (ii)(aa) or (bb) is satisfied in his case;
 - (ii) specified in paragraph 1(1)(b) of Part 1 of Schedule 3A to the Rent Officers Order where that applies in the claimant's case at the relevant date in accordance with the size criteria and he is not a person to whom head (i) (aa) applies and where—
 - (aa) the claimant (together with his partner where he has one) has the exclusive use of two or more rooms; or
 - (bb) the claimant (together with his partner where he has one) has the exclusive use of one room, a bathroom and toilet and a kitchen or facilities for cooking;
 - (iii) in any other case, which applies in the claimant's case at the relevant date in accordance with the size criteria.
- (4) Where no local housing allowance applicable to a claim or award of housing benefit falling within paragraph (3)(b)(iii) has been determined, the pathfinder authority shall—
- (a) apply to the rent officer for local housing allowance determinations for the category of dwelling applicable to the claim or award of housing benefit for each broad rental market area falling within its area, in whole or in part, at the relevant date, which shall be specified in the application; and
 - (b) apply the local housing allowance so determined for the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date.
- (5) Where—
- (a) a pathfinder authority receives a request on a properly completed form approved for the purpose by the pathfinder authority from a person stating that he is contemplating occupying as his home a dwelling containing a specified number of rooms, exceeding six, within the area of the pathfinder authority and that, if he does so, he is likely to claim housing benefit; and
 - (b) no local housing allowance determination is in effect for a broad rental market area, falling within, in whole or in part, the area of the pathfinder authority for the category of dwelling containing the number of rooms specified in the form,

(117) S.I. 1997/1984 and 1995. Relevant amending instruments to S.I. 1997/1984 are S.I. 2000/1 and 2003/2398. Relevant amending instruments to S.I. 1997/1995 are S.I. 2000/3 and 2003/2398

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the pathfinder authority shall apply to the rent officer for local housing allowance determinations for each broad rental market area for the category of dwelling containing the number of rooms specified in the form.

(6) In a case where—

- (a) the pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of paragraph (1); and
- (b) part of the rent under the tenancy appears to the pathfinder authority to be likely to be attributable to board and attendance,

the pathfinder authority shall apply to the rent officer for a board and attendance determination to be made in accordance with article 4C of the Rent Officers Order.

(7) Where an application to a rent officer is required in accordance with paragraph (6)—

- (a) it shall contain—
 - (i) a statement that the application is made in accordance with paragraph (6); and
 - (ii) such other statements, information and notifications as would be required were the application to be made in accordance with regulation 14(1); and
- (b) it shall be made within the same period following the day on which the pathfinder authority becomes obliged to determine a maximum rent (standard local rate) by virtue of paragraph (1) as would be required if it were to be made under regulation 14(1).

(8) Where the maximum rent (standard local rate) exceeds the rent, the claimant shall be treated as liable to make payments in respect of the dwelling of an amount equal to the amount by which the maximum rent (standard local rate) exceeds the rent, except for the purposes of calculating any amount by which a rent allowance exceeds the amount which a claimant is liable to pay his landlord as rent, or rent and any arrears of rent, in accordance with regulation 95(2A).

(9) In this regulation—

“change of dwelling” has the same meaning as in regulation 14;

“change relating to a rent allowance” has the same meaning as in regulation 14;

“occupiers” means the persons whom the pathfinder authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant’s household;

“registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996⁽¹¹⁸⁾ and, in Scotland, sections 57 and 59 of the Housing (Scotland) Act 2001⁽¹¹⁹⁾;

“room” has the meaning specified in paragraph 1(2) of Part 1 of Schedule 3A to the Rent Officers Order;

“size criteria” has the meaning specified in article 2 of the Rent Officers Order except that the word “occupier” is to be construed in accordance with the definition of “occupiers” in this paragraph.

Publication of local housing allowances

13B. A pathfinder authority shall take such steps as appear to it to be appropriate for the purpose of securing that information in relation to broad rental market areas falling in

⁽¹¹⁸⁾ 1996 c. 52.

⁽¹¹⁹⁾ 2001 asp 10.

whole or in part within its area, and local housing allowances applicable to such broad rental market areas, is brought to the attention of persons who may be entitled to housing benefit from the authority.”.

Amendment of regulation 14

8. In regulation 14 (requirement to refer to rent officers) after paragraph (5), insert the following paragraph—

“(5A) An application shall not be required under paragraph (1)(a), (b), (c) (d) or (e) where the claim, relevant information, notification or request is received by a pathfinder authority, unless it is—

- (a) a claim, relevant information or notification to which any of the circumstances specified in regulation 13A(2)(a) to (e) apply; or
- (b) a request, and any of the circumstances in regulation 13A(2)(a) to (d) would apply were a claim to be made by the prospective occupier in relation to the dwelling which is the subject of the request,

and a referral would fall to be made were the claim, relevant information, notification or request made to a relevant authority which is not a pathfinder authority.

(5B) An application shall not be required in accordance with paragraph (1)(f) or (g) unless—

- (a) it is a case to which regulation 13A(2) applies; and
- (b) a referral would fall to be made were the relevant authority not a pathfinder authority.”.

Amendment of regulation 15

9. In regulation 15(1)(a) (applications to the rent officers for redeterminations) after the words “reference made under” insert “regulation 13A(6) or”.

Amendment of regulation 16

10. In regulation 16 (application for redetermination by rent officer)—

- (a) in paragraph (1)(b) after the words “the Housing Act functions” insert the words “except for functions relating to broad rental market area determinations and local housing allowance determinations or amended determinations”;
- (b) in paragraphs (3) and (4)(b) after the words “application under regulation” insert the words “13A(6) or”;
- (c) in paragraph (5) after the words “the Housing Act functions” insert the words “(except for those relating to broad rental market area determinations and local housing allowance determinations or amended determinations)”.

Amendment of regulation 17

11. In regulation 17 (substitute determinations or substitute redeterminations)—

- (a) in paragraph (1)(b)—
 - (i) for the words “article 7A” substitute the words “article 7A(1) or (2)”;
 - (ii) for the words “or substitute redetermination” substitute “, substitute redetermination, substitute board and attendance determination or substitute board and attendance redetermination”; and

- (b) in paragraph (2) for the words “or substitute redetermination” substitute “, substitute redetermination, board and attendance redetermination, substitute board and attendance determination or substitute board and attendance redetermination”.

Insertion of regulation 18A

12. After regulation 18 (application of provisions to substitute determinations or substitute redeterminations) insert the following regulation—

“Amended determinations

18A. Where a decision has been revised in consequence of an amended broad rental market area determination or amended local housing allowance determination by a rent officer and that amended determination has led to—

- (a) a reduction in the maximum rent (standard local rate) applicable to a claimant, the amended determination shall be a change of circumstances in relation to that claimant; and
- (b) an increase in the maximum rent (standard local rate) applicable to a claimant, the amended determination shall have effect in place of the original determination.”.

Amendment of regulations 95 and 96

13.—(1) In regulation 95 (circumstances in which payment is to be made to a landlord) after paragraph (2) insert the following paragraph—

“(2A) In a case where—

- (a) a pathfinder authority has determined a maximum rent (standard local rate) in accordance with regulation 13A(1); and
- (b) the rent allowance exceeds the amount which the claimant is liable to pay his landlord by way of rent,

any payment of rent allowance made to a landlord pursuant to this regulation or to regulation 96 may include all or part of any amount by which the rent allowance exceeds the amount which the claimant is liable to pay his landlord as rent but shall not include any amount by which the rent allowance exceeds the amount which the claimant is liable to pay his landlord as rent and arrears of rent.”

(2) In regulation 96 (circumstances in which payment may be made to a landlord)—

- (a) in paragraph (1) for the words “paragraph (3)” substitute the words “paragraphs (3) and (3A)”;
- (b) in sub-paragraph (a) of paragraph (3) after the words “paragraph (1)” insert the words “or (3A)”;
- (c) after paragraph (3) insert the following paragraph—

“(3A) In a case where a pathfinder authority has determined a maximum rent (standard local rate) in accordance with regulation 13A—

- (a) sub-paragraphs (a) and (b) of paragraph (1) shall not apply; and
- (b) payment of a rent allowance to a person’s landlord may be made where—
 - (i) the eligible rent was determined by reference to a maximum rent (standard local rate) which was determined by virtue of regulation 13A(1)(a) and—
 - (aa) the maximum rent (standard local rate) was determined less than six months previously;

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- (bb) no subsequent maximum rent (standard local rate) has been determined in accordance with regulation 13A(1); and
- (cc) the claimant has, since the date the maximum rent (standard local rate) was determined, been continuously entitled to, and in receipt of, housing benefit in relation to the dwelling he occupied as his home at that date;
- (ii) the pathfinder authority considers that the claimant is likely to have difficulty in managing his affairs;
- (iii) the pathfinder authority considers that it is improbable that the claimant will pay his rent; or
- (iv) a direct payment has previously been made by the pathfinder authority to the landlord in accordance with regulation 95 in respect of the current award of housing benefit.”.