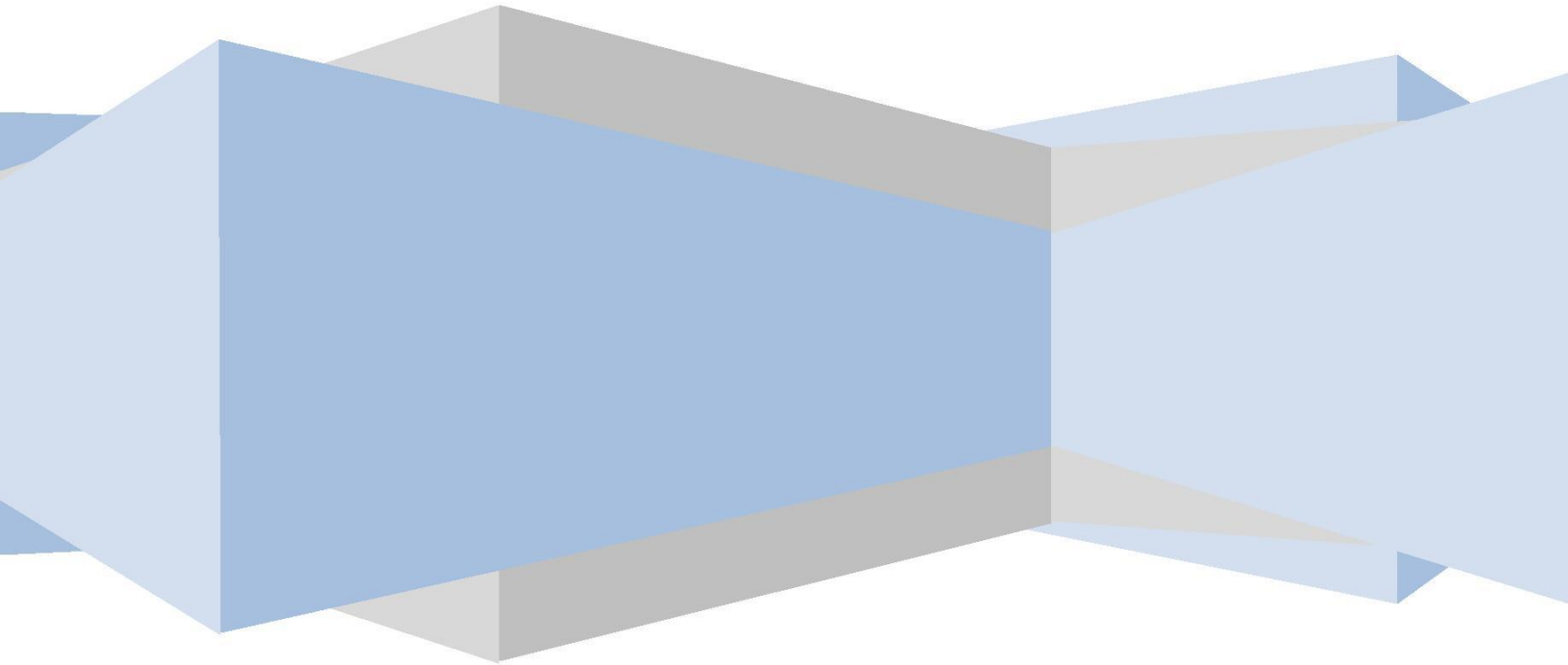


**Council Tax Reduction Scheme 2024/25**  
**Cheshire West and Chester Council**



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## 1. Introduction

This document outlines the principle features of the prescribed Council Tax Reduction Scheme and suggests a local addition to the pensioner scheme (in respect of excess reductions and war pensions). The policy was adopted by the Council on 13 December 2012 for the period 1 April 2013 until 31 March 2014, and thereafter unless any changes are identified and to be made upon review.

It also outlines the existing statutory framework that the Cheshire West and Chester scheme can be based on, and suggests wording for additional localised rules where these are required.

This scheme is principally related to the following factors:

- the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012.
  - unknown factors regarding the assessment, entitlement, payment and notification of other reformed benefits under the Welfare Reform Act for example, Universal Credit, Personal Independence Payments and the housing element of Universal Credit.
- the results of the Cheshire West and Chester consultation exercise and meeting of council.
- Local Government Finance Act 1992.
  
- In accordance with the consultation carried out by Cheshire West and Chester Council in 2012, any Legislation changes for Housing Benefit introduced will be linked to Council Tax Reduction Scheme under the same conditions and from the same effective date.

## 2. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

The prescribed draft Regulations start with three parts which are mandatory for both 'working age' and 'pension age' schemes. These parts are referred to here, but are not reproduced fully since they will be part of statutory instruments.

The Council has no discretion in relation to the calculation of Council Tax Reduction for applicants who are of pension age, and certain aspects of the scheme for working age applicants, under the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012.

### **3. Cheshire West and Chester – the local Council Tax Reduction Scheme for working age applicants**

- 3.1** The Council will apply a means test comparing the income of the household against the applicable amounts and premiums outlined in this document. In addition to this, the applicant must be liable to pay Council Tax for a property which is determined as their main residence.
- 3.2** This scheme will not apply to any applicant who is subject to immigration control as outlined in this document or for any applicant deemed to be a person from abroad.
- 3.3** Working age applicants are defined by regulation 3 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012 as below:
- (b) a ‘person who is not a pensioner’ if—
- (i) he has not attained the qualifying age for State Pension Credit: or
  - (ii) he has attained the qualifying age for State Pension Credit and he, or if he has a partner, his partner, is—
    - (aa) a person on Income Support, on Income-Based Jobseeker’s Allowance or an Income-Related Employment and Support Allowance: or
    - (bb) a person with an award of Universal Credit.
- 3.4** (a) under this scheme, for working age applicants the maximum Council Tax Reduction that can be awarded will be based upon 75% of liability for Council Tax (after any other discounts have been applied).
- 3.5** (b) the maximum award will also be restricted to the equivalent of a band D property.
- 3.6** (c) any applicant possessing more than £6,000 in capital will not be entitled to Council Tax Reduction under this scheme.
- 3.7** (a) (b) and (c) above will apply to the applicant unless they fall into **working age** classes **C** and **D** outlined below or are defined as a war pensioner within this scheme.

## **4. Classes of working age applicants**

### **4.1 Class A: non - Pensioners whose income is no greater than than the applicable amount**

On any day class A consists of any person who is a not a pensioner—

- (a) who is for that day liable to pay Council Tax in respect of a dwelling of which he is a resident;
- (b) subject to this scheme, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum Council Tax Reduction amount can be calculated;
- (d) who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from a scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount calculated in accordance with this scheme;
- (f) whose capital on that day does not exceed £6,000, and
- (g) who has made an application for a reduction under the authority's scheme.

### **4.2 Class B: non - Pensioners whose income is greater than the applicable amount**

On any day class B consists of any person who is not a pensioner—

- (a) who is for that day liable to pay Council Tax in respect of a dwelling of which he is a resident;
- (b) subject to the rules of this scheme, is not absent from the dwelling throughout the day;;
- (c) in respect of whom a maximum Council Tax Reduction amount can be calculated;
- (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from a scheme;
- (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with this scheme;
- (f) in respect of whom amount a exceeds amount b where—
  - (i) amount a is the maximum Council Tax Reduction in respect of the day in the applicant's case: and
  - (ii) amount b is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- (g) whose capital on that day does not exceed £6,000, and
- (h) who has made an application for a reduction under the authority's scheme.

**4.3 Class C: Non-pensioners who qualify for severe or enhanced disability premium, the carer premium or a disabled child premium, whose income is less than the applicable amount.**

On any day class C consists of any person who is not a pensioner—

- (a) who is for that day liable to pay Council Tax in respect of a dwelling of which he is a resident;
- (b) subject to the rules of this scheme, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum Council Tax Reduction amount can be calculated;
- (d) who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from a scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount calculated in accordance with this scheme;
- (f) whose capital on that day does not exceed £16,000, and
- (g) who has made an application for a reduction under the authority's scheme.

**4.4 Class D: Non-pensioners who qualify for severe or enhanced disability premium, the carer premium or a disabled child premium whose income is greater than the applicable amount**

On any day class D consists of any person who is not a pensioner—

- (a) who is for that day liable to pay Council Tax in respect of a dwelling of which he is a resident;
- (b) subject to this scheme, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum Council Tax Reduction amount can be calculated;
- (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from a scheme;
- (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with this scheme;
- (f) in respect of whom amount a exceeds amount b where—
  - (i) amount a is the maximum Council Tax Reduction in respect of the day in the applicant's case: and
  - (ii) amount b is  $2\frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount;
- (g) whose capital on that day does not exceed £16,000, and
- (h) who has made an application for a reduction under the authority's scheme.

## **5. Maximum Council Tax Reduction (under local authority reduction scheme)**

**5.1** This rule shall have effect as described in regulation 57 of SI 2006 no. 215, but paragraph (1) will be substituted for:

subject to paragraphs 2 to 4, the amount of a person's maximum Council Tax Reduction in respect of a day for which he is liable to pay Council Tax, shall be 75 per cent of the amount of a/b where –

regulation 57 of SI 2006 no. 215 paragraph (1) (a) will be substituted for:

(a) is the relevant amount set by the appropriate authority as the Council Tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he liable, in the cases of dwellings in valuation bands, A, B, C or D, subject to any discount which may be appropriate to that dwelling under the 1992 Act. For dwellings in valuation bands E, F, G and H then a will be the amount as it would have applied to dwellings in valuation band D.'

## **6. Maximum Council Tax Reduction (for protected groups under the local authority reduction Scheme)**

**6.1** This applies to classes C, D and war pensioners.

**6.2** This rule shall have effect as described in regulation 57 of S.I 2006 no. 215, but paragraph (1) will be substituted for:

'subject to paragraphs 2 to 4, the amount of a person's maximum Council Tax Reduction in respect of a day for which he is liable to pay Council Tax, shall be 100 per cent of the amount of a/b where:

There is no restriction to any Council Tax banding where these protections apply.

**6.3** There is no restriction to any Council Tax banding where these protections apply.

## **7. The local Council Tax Reduction Scheme for working age applicants- other factors**

- 7.1** Applicants that have a non dependant in the household (as defined in this scheme) will be subject to £5 deduction per week from their calculated entitlement. However, this scheme also defines non dependants for whom no deduction will be made.
- 7.2** Any application for a reduction under this scheme for working age customers will be treated as made on the date the application is received, and will not be considered from an earlier date.
- 7.3** For working age applicants an extended reduction will be considered for a period of four weeks upon starting remunerative work, in accordance with this scheme.
- 7.4** An additional earnings disregard of £10 per week maximum will be applied to the calculation of earnings of an applicant or their partner who is engaged in remunerative work where at least one dependent child resident in the household is aged under five.
- 7.5** Any applicants of working age who are also defined as war pensioners within this scheme will be subject to specific protections outlined above for classes **C** and **D**. they will also have a full disregard of a war pension that is defined in this scheme.

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

- 8.1** (1) subject to the disregard of changes in tax, contributions etc., for the purposes of section 131(5) of the act (conditions of entitlement to Council Tax Reduction) the income of an applicant shall be calculated on a weekly basis:

By estimating the amount which is likely to be his average weekly income in accordance with this scheme.

(a) by adding to that amount the weekly income calculated under the calculation of tariff income from capital and:

(b) by then deducting any relevant child care charges to which the treatment of child care charges applies from any earnings which form part of the average weekly income or, in a case where the conditions in paragraph (8.2) are met, from those earnings plus whichever credit specified in subparagraph (B) of 8.2.

(c) of that paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (8.3) applies in his case.

- 8.2** (2) the conditions of this paragraph are that—

(a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in paragraph 8.3 otherwise applies in his case: and:

(b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either Working Tax Credit or Child Tax Credit.

- 8.3** (3) the maximum deduction to which paragraph (1)(C) above refers shall be—

(a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175 per week:

(b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

- 8.4** (4) for the purposes of paragraph (1) 'income' includes capital treated as income under this scheme and income which an applicant is treated as possessing as notional income under this scheme.



## **9. Average weekly earnings of employed earners**

- 9.1** (1) where an applicant's income consists of earnings from employment as an employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment:
- (a) over a period immediately preceding the benefit week in which the claim is made or treated as made and being a period of:
  - (b) five weeks, if he is paid weekly: or
  - (c) two months, if he is paid monthly: or
  - (d) whether or not sub-paragraph (b) or (c) applies, where an applicant's earnings fluctuate, over such other period preceding the benefit week in which the application is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.
- 9.2** (2) where the applicant has been in his employment for less than the period specified in 9.1:
- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings shall be estimated by reference to those earnings;
  - (b) in any other case, the relevant authority shall require the applicant's employer to furnish an estimate of the applicant's likely weekly earnings over such period as the relevant authority may require and the applicant's average weekly earnings shall be estimated by reference to that estimate.
- 9.3** (3) where the amount of an applicant's earnings changes during an award the authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.
- 9.4** (4) for the purposes of this scheme the applicant's earnings shall be calculated in accordance with the rules of this scheme.

## **10. Average weekly earnings of self-employed earners**

- 10.1** (1) where an applicant's income consists of earnings from employment as a self-employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed a year.
- 10.2** (2) for the purposes of this scheme the applicant's earnings shall be calculated in accordance with this scheme.

## **11. Average weekly income other than earnings**

- 11.1** (1) an applicant's income which does not consist of earnings shall, except where paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period shall not in any case exceed 52 weeks: and nothing in this paragraph shall authorise an authority to disregard any such income other than that specified in the appropriate schedule for this scheme.
- 11.2** (2) the period over which any benefit under the benefit acts is to be taken into account shall be the period in respect of which that benefit is payable.
- 11.3** (3) income other than earnings shall be calculated in accordance with this scheme.

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

- 12.1** (1) for the purposes of average weekly earnings of employed earners, the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.
- 12.2** (2) there shall be disregarded from an applicant's net earnings, any sum, where applicable, specified in the appropriate schedule of this scheme.
- 12.3** (3) for the purposes of paragraph (1) net earnings shall, except where paragraph (6) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less:
- (a) any amount deducted from those earnings by way of:
    - (i) Income Tax;
    - (ii) primary Class 1 Contributions under the Act;
    - (iii) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme.
    - (iv) one-half of the amount calculated in accordance with paragraph (5) in respect of any qualifying contribution payable by the applicant: and;
- 12.4** (4) 'qualifying contribution' means any sum which is payable periodically as a contribution towards a personal pension scheme.

The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period: and for the purposes of this scheme the daily amount of the qualifying contribution shall be determined:

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365:
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

**12.5** Where the earnings of an applicant are estimated under sub-paragraph (b) of paragraph (2) of average weekly earnings of employed earners, his net earnings shall be calculated by taking into account those earnings over the assessment period, less:

- (c) an amount in respect of Income Tax equivalent to an amount calculated by applying to those earnings the basic rate of Tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of Tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis:
- (d) an amount equivalent to the amount of the primary Class 1 Contributions that would be payable by him under the act in respect of those earnings if such contributions were payable: and
- (c) one – half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings

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

- 13.1** (1) subject to paragraph (2), 'earnings', in the case of employment as a self-employed earner, means the gross income of the employment.
- 13.2** (2) 'earnings' shall not include any payment to which the appropriate schedule for sums to be disregarded in the calculation of income other than earnings refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor shall it include any sports award.
- 13.3** (3) this paragraph applies to—
- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark: or;
  - (b) any payment in respect of any—
    - (i) book registered under the public lending right scheme 1982: or
    - (ii) work made under any international public lending right scheme that is analogous to the public lending right scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.
- 13.4** (4) where the applicant's earnings consist of any items to which paragraph (3) applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of Council Tax benefit which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under sums to be disregarded in the calculation of earnings as appropriate in the applicant's case.

## 14. Notional income

14.1 (1) A applicant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to Housing Benefit or increasing the amount of that benefit.

(2) except in the case of—

(a) a discretionary trust:

(b) a trust derived from a payment made in consequence of a personal injury:

(c) a personal pension scheme, occupational pension scheme or a payment made by the board of the Pension Protection Fund where the applicant has not attained the qualifying age for State Pension Credit:

(d) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a):

(da) any sum to which paragraph 48(a) of schedule 5 refers:

(e) rehabilitation allowance made under section 2 of the 1973 Act:

(f) Child Tax Credit: or

(g) Working Tax Credit,

(h) any sum to which paragraph (13) applies:

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

(3) any payment of income, other than a payment of income specified in paragraph (4), made:

(a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the board of the pension protection fund, be treated as possessed by that single applicant or, as the case may be, by that member:

(b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case

may be, of any member of that family or is used for any Council Tax or water charges for which that applicant or member is liable:

(c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) paragraph (3) shall not apply in respect of a payment of income made:

(a) under or by the MacFarlane trust, the MacFarlane (special payments) trust, the MacFarlane (special payments) (no. 2) trust, the fund, the Eileen trust, MFET limited, the Skipton fund, the Caxton foundation or the Independent Living Fund (2006):

(b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal):

(c) pursuant to section 2 of the 1973 Act in respect of a person's participation:

(i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations:

(ii) in a training scheme specified in regulation 75(1)(b)(ii) of those regulations:

(iii) in the intense activity period specified in regulation 75(1)(a)(iv) of those regulations: or

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

(v) in the flexible new deal specified in regulation 75(1)(a)(v) of those regulations:

(ca) in respect of a person's participation in the work for your benefit pilot scheme:

(cb) in respect of a person's participation in the mandatory work activity scheme:

(cc) in respect of a applicant's participation in the employment, skills and enterprise scheme:

(d) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the board of the pension protection fund where—

(i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the solicitors (Scotland) Act 1980:

(ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors: and

(iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(4) where an applicant is in receipt of any benefit (other than Council Tax benefit) under the benefit acts and the rate of that benefit is altered with effect from a date on or after 1 April in any year but not more than 14 days thereafter, the relevant authority shall treat the applicant as possessing such benefit at the altered rate from either 1 April or the first Monday in April in that year, whichever date the relevant authority shall select to apply in its area, to the date on which the altered rate is to take effect.

(5) subject to paragraph (7), where—

(a) an applicant performs a service for another person: and

(b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the relevant authority shall treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.

(7) paragraph (6) shall not apply—

(a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the relevant authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge: or

(b) in a case where the service is performed in connection with:

(i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the applicant's participation in the intense activity period specified in regulation 75(1)(a)(iv) of those regulations: or

(ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme: or



(d) to a applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the secretary of state) before the placement starts.

(7)

(a) in paragraph (7)(c) 'work placement' means practical work experience which is not undertaken in expeccommon travel areation of payment.

(8) where a applicant is treated as possessing any income under any of paragraphs (1) to (5), the foregoing provisions of this part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(9) where a applicant is treated as possessing any earnings under paragraph (6) the foregoing provisions of this part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that the calculation of net earnings of employed earners in this scheme shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less:

(a) an amount in respect of Income Tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the income and corporation taxes Act 1988 (personal allowances) as is appropriate to his circumstances: but, if the assessment period is less than a year, the earnings to which the basic rate of Tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis:

(b) an amount equivalent to the amount of the Primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable: and

(c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

(10) paragraphs (1), (2), (3) and (6) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant participating as a service user.

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

This provides for the establishment of a 'date of claim'

**15.1** Claims for a Council Tax Reduction will be paid from the Monday of the reduction week following the date of claim. There will be no backdating of awards under the scheme.

- a) the date of claim for a reduction will be the date of the applicant first notifying, by whatever means, the authority of an intention to make an application where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date the application form was issued to the applicant.
- b) in any other case, the date of claim will be the date on which the application is received at the offices of the authority.
- c) subject to paragraph (d) any person to whom or in respect of whom an application for a reduction under an authority's scheme is made, and who is otherwise entitled to that reduction, shall be so entitled from the reduction week following the date of claim.
- d) where a person is otherwise entitled to a reduction under that scheme and becomes liable for the first time for the authority's Council Tax in respect of a dwelling of which he is a resident in the reduction week in which his date of claim falls, he shall be so entitled from the first day of liability in that reduction week.
- e) any claim which is received through the Department for Work and Pensions will be treated as made on the day that they receive representation of an intention to claim, and advise the Council of that intention, so long as the actual claim is made to the Council within one calendar month of that date.

## 16. Students

### 16.1 (1) in this part:

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

'access funds' means:

(a) grants made under section 68 of the further and higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students:

(b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980:

(c) grants made under article 30 of the Education and Libraries (northern Ireland) order 1993 or grants, loans or other payments made under article 5 of the further education (Northern Ireland) order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties:

(d) discretionary payments, known as 'learner support funds', which are made available to students in further education by institutions out of funds provided by the Secretary of State under section 14 of the Education Act 2002 or the chief executive of skills funding under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009: or

(e) financial contingency funds made available by the Welsh ministers:  
'college of further education' means a college of further education within the meaning of part 1 of the Further and Higher Education (Scotland) Act 1992:

'contribution' means:

(a) any contribution in respect of the income of a student or any person which the secretary of state, the Scottish ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan: or

(b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the education (Scotland) Act 1980, the Scottish ministers or education authority takes into account being sums which the Scottish ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder's expenses:

(i) the holder of the allowance or bursary:

(ii) the holder's parents:

(iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent: or

(iv) the holder's spouse or civil partner:

'course of study' means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it:

'covenant income' means the gross income payable to a full-time student under a deed of covenant by his parent:

'covenant income' means the gross income payable to a full-time student under a deed of covenant by his parent:

'education authority' means a government department, a local education authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under article 3 of the Education and Libraries (Northern Ireland) order 1986, anybody which is a research Council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain:

'full-time course of study' means a full-time course of study which:

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the chief executive of skills funding or by the Welsh ministers or a full-time course of study which is not funded in whole or in part by the Scottish ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish ministers:
- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the chief executive of skills funding or by the Welsh ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out:
  - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the chief executive of skills funding in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons bodies for the delivery of that course: or
  - (ii) in the case of a course funded by the Welsh ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course: or
- (c) is not higher education and is funded in whole or in part by the Scottish ministers at a college of further education and involves:
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college: or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college:

'full-time student' means a person attending or undertaking a full-time course of study and includes a student on a sandwich course:

'grant' (except in the definition of 'access funds') means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment under any schedule of the local authority Reduction Scheme.

'grant income' means:

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

'higher education' means higher education within the meaning of part 2 of the Further and Higher Education (Scotland) Act 1992:

'last day of the course' means:

(a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later:

(b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled:

'period of study' means:

(a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course:

(b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either:

(i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one: or

(ii) in any other case, the day before the start of the normal summer vacation appropriate to his course:

(b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof:

(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as

'standard maintenance allowance' for the relevant year appropriate for the student set out in the student support in Scotland guide issued by the student awards agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority:

(d) in any other case, the amount specified in paragraph 2(2) of schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof.

'student' means a person, other than a person in receipt of a training allowance, who is attending or undertaking:

- (a) a course of study at an educational establishment: or
- (b) a qualifying course:

'student loan' means a loan towards a student's maintenance pursuant to any Regulations made under section 22 of the teaching and higher Education Act 1998, section 73 of the education (Scotland) Act 1980 or article 3 of the Education (student support) (Northern Ireland) order 1998 and shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the students' allowances (Scotland) regulations 2007.

**16.2** (2) for the purposes of the definition of 'full-time student' in paragraph (1), a person shall be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course:

- (a) subject to paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this part, for the period beginning on the day on which that part of the course starts and ending:
  - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study: or
  - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it:
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

**16.3** (3) for the purposes of sub-paragraph (a) of paragraph (2), the period referred to in that sub-paragraph shall include:

(a) where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module:

(b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

**16.4** (4) in paragraph (2), 'modular course' means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

## **17. Treatment of students**

These rules shall have effect in relation to students subject to the following provisions of this part.



## **18. Students who are excluded from entitlement to Council Tax Reduction**

**18.1** (1) subject to paragraph (2) and (6), this paragraph applies to a full-time student and students who are persons from abroad within the meaning of persons from abroad rules in this scheme.

**18.2** (2) paragraph (2) shall not apply to a student—

(a) who is a person on Income Support, an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support Allowance:

(b) who is a lone parent:

(c) whose applicable amount would, but for this regulation, include the disability premium or severe disability premium:

(d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with Regulations made under section 171e of the Act:

(e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and Regulations made under, part 12a of the Act (incapacity for work) for a continuous period of not less than 196 days: and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period:

(ea) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not

(i) aged under 21 and whose course of study is not a course of higher education:

(ii) aged 21 and attained that age during a course of study which is not a course of higher education:

(iii) a qualifying young person or child within the meaning of section  
a of the Act (child and qualifying young person):  
in respect of whom:

a supplementary requirement has been determined  
under paragraph 9 of part 2 of schedule 2 to the Education  
(mandatory awards) Regulations 2003:

an allowance, or as the case may be, bursary has been  
granted which includes a sum under paragraph (1)(d) or  
regulation 4 of the students' allowances (Scotland)  
Regulations 1999 or, as the case may be, under  
paragraph (1)(d) of regulation 4 of the Education Authority  
(bursaries) (Scotland) Regulations 1995, in respect of  
expenses incurred:

a payment has been made under section 2 of the  
Education Act 1962 or under or by virtue of Regulations  
made under teaching and higher Education Act 1998:

a grant has been made under regulation 13 of the  
Education 3a) paragraph (3)(h)(ii) only applies to a  
applicant until the end of the course during which the  
applicant attained the age of 21.

- 18.3** (3) for the purposes of paragraph (2), once paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.
- 18.4** (4) in paragraph (2)(h) the reference to a course of higher education is a reference to a course of any description mentioned in schedule 6 to the Education Reform Act 1988(c).
- 18.5** (5) a full-time student to whom sub-paragraph (i) of paragraph (2) applies, shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

- 18.6** (6) paragraph (1) shall not apply to a full-time student for the period specified in paragraph (7) if—
- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
    - (i) engaged in caring for another person: or
    - (ii) ill:
  - (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness: and
  - (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph
- 18.7** (7) the period specified for the purposes of paragraph (6) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before:
- (a) the day on which he resumes attending or undertaking the course: or
  - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, whichever shall first occur.

## **19. Calculation of grant income**

- 19.1** (1) the amount of a student's grant income to be taken into account shall, subject to paragraphs (2) and (3), be the whole of his grant income.
- 19.2** (2) there shall be excluded from a student's grant income any payment—
- (a) intended to meet tuition fees or examination fees:
  - (b) in respect of the student's disability:
  - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment:
  - (d) on account of the student maintaining a home at a place other than that at which he resides during his course:
  - (e) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him:
  - (f) intended to meet the cost of books and equipment:
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course:
  - (h) intended for the child care costs of a child dependant:
  - (i) of higher education bursary for care leavers made under part iii of the Children Act 1989.
- 19.3** (3) where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income
- (a) the sum of £303 in respect of travel costs: and
  - (b) the sum of £390 towards the costs of books and equipment, whether or not any such costs are incurred.
- 19.4** (4) there shall also be excluded from a student's grant income the grant for those dependants known as the parents' learning allowance paid pursuant to Regulations made under article 3 of the education (student support) (Northern Ireland) order 1998 or section 22 of the Teaching and Higher Education Act 1998.

- 19.5** (5) subject to paragraphs (6) and (7), a student's grant income shall be apportioned—
- (a) subject to paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study:
  - (b) in any other case, equally between the weeks in the period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- 19.6** (6) any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968(a) (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under part 3 of schedule 2 to the education (mandatory awards) Regulations 2003(b) shall be apportioned equally over the period of 52 weeks or, if there are 53 benefit weeks (including part-weeks) in the year, 53.
- 19.7** (7) in a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither paragraph (6) nor regulation 50(2) (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- 19.8** (8) in the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the weeks in the period beginning with the benefit week, the first day of which immediately follows the last day of the period of experience and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

## **20. Calculation of covenant income where a contribution is assessed**

- 20.1** (1) where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of the covenant income less, subject to paragraph (3), the amount of the contribution.
- 20.2** (2) the weekly amount of the student's covenant shall be determined—
- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or 53, whichever is reasonable in the circumstances: and
  - (b) by disregarding from the resulting amount, £5.
- 20.3** (3) for the purposes of paragraph (1), the contribution shall be treated as increased by the amount (if any) by which the amount excluded under regulation 46(2)(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of schedule 2 to the education (mandatory awards) Regulations 2003 (travel expenditure).

## **21. Covenant income where no grant income or no contribution is assessed**

**21.1** (1) where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows:

(a) any sums intended for any expenditure specified in the calculation of grant income under this scheme necessary as a result of his attendance on the course shall be disregarded:

(b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study:

(c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under the calculation of grant income rules in this scheme had the student been in receipt of the standard maintenance grant: and

(d) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall be disregarded.

**21.2** (2) where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with sub-paragraphs (a) to (d) of paragraph (1), except that:

(a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under the calculation of grant income rules in this scheme.

(b) the amount to be disregarded under paragraph (1)(c) shall be abated by an amount equal to the amount of any sums disregarded under the calculation of grant income rules in this scheme.

## **22. Other amounts to be disregarded**

- 22.1** (1) for the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with the treatment of student loans expenditure specified in the calculation of grant income, necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under the calculation of grant income, covenant income and treatment of student loans on like expenditure.

## **23. Treatment of student loans**

- 23.1** (1) a student loan shall be treated as income.
- 23.2** (2) in calculating the weekly amount of the loan to be taken into account as income—
- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period shall be apportioned equally between the weeks in the period beginning with—
    - (i) except in a case where head (ii) applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of the single academic year:
    - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the benefit week, the first day of which coincides with, or immediately follows, the first day of the course, and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the course:
  - (b) in respect of an academic year of a course which starts other than on 1 September, a loan which is payable in respect of that academic year shall be apportioned equally between the weeks in the period beginning with the benefit week, the first day of which coincides with or immediately follows, the first day of that academic year and ending with the benefit week, the last day of which coincides with or immediately precedes, the last day of that academic year but excluding any benefit weeks falling entirely within the quarter during which, in the opinion of the secretary of state, the longest of any vacation is taken and for the purposes of this sub-paragraph, 'quarter' shall have the same meaning as for the purposes of the Education (student support) Regulations 2005(c):
  - (c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year shall be apportioned equally between the weeks in the period beginning with—



- (i) except in a case where head (ii) applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of that academic year:
- (ii) where the final academic year starts on 1 September, the benefit week, the first day of which coincides with, or immediately follows, the earlier of 1 September or the first day of the autumn term, and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the course:

(d) in any other case, the loan shall be apportioned equally between the weeks in the period beginning with the earlier of—

- (i) the first day of the first benefit week in September: or
- (ii) the benefit week, the first day of which coincides with, or immediately follows the first day of the autumn term, and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of June, and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.

**23.3** (3) a student shall be treated as possessing a student loan in respect of an academic year where:

- (a) a student loan has been made to him in respect of that year: or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

**23.4** (4) where a student is treated as possessing a student loan under paragraph (3), the amount of the student loan to be taken into account as income shall be, subject to paragraph (5):

(a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to:

- (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so: and
- (ii) any contribution whether or not it has been paid to him:

(b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if:

- (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year: and
- (ii) no deduction in that loan was made by virtue of the application of a means test.

**23.5** (5) there shall be deducted from the amount of income taken into account under paragraph (4):

(a) the sum of £303 in respect of travel costs: and

(b) the sum of £390 towards the cost of books and equipment, whether or not any such costs are incurred.

## **24. Treatment of fee loans**

A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to Regulations made under article 3 of the Education (student support) (Northern Ireland) order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

## **25. Treatment of payments from access funds**

**25.1** (1) this regulation applies to payments from access funds that are not payments to which income treated as capital applies.

**25.2** (2) a payment from access funds, other than a payment to which paragraph (3) applies, shall be disregarded as income.

**25.3** (3) subject to paragraph (4) and specified in the local authority Reduction Scheme schedule, any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family and any payments from access funds which are used for any Council Tax or water charges for which that applicant or member is liable, shall be disregarded as income to the extent of £20 per week.

**25.4** (4) where a payment from access funds is made—

(a) on or after 1 September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan: or

(b) before the first day of the course to a person in anticipation of that person becoming a student, that payment shall be disregarded as income.

## **26. Disregard of contribution**

Where the applicant or his partner is a student and, for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.

## **27. Further disregard of student's income**

Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant or student loan, the amount taken into account shall be disregarded in assessing that student's income.

## **28. Income treated as capital**

**28.1** (1) any amount by way of a refund of Tax deducted from a student's covenant income shall be treated as capital.

**28.2** (2) an amount paid from access funds as a single lump sum shall be treated as capital.

**28.3** (3) an amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any Council Tax or water charges for which that applicant or member is liable, shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.

## **29 Disregard of changes occurring during summer vacation**

In calculating a student's income the relevant authority shall disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

## **30. Back-dating of applications**

There is no provision for working age claims to be backdated.

## **31. Applicable amounts**

This refers to the schedule where the personal allowances and premiums are prescribed.

**31.1** The applicable amount for a working age applicant for a week is the aggregate of such of the following amounts as apply in his case:

(a) an amount in respect of his personal allowance, determined in accordance with the schedule to this scheme:

(b) an amount in respect of any child or young person who is a member of his family, determined in accordance with the schedule to this scheme:

(c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with the schedule to this scheme (family premium):

(d) the amount of any premiums which may be applicable to him, determined in accordance with the schedule to this scheme (premiums).

**31.2** in the schedule —

‘additional spouse’ means a spouse by the party to the marriage who is additional to the party to the marriage:

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

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

**32.1** (1) subject to sub-paragraphs (3) and (9), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time:

- (a) between the making of an application and a decision being made on it,  
or
- (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under an authority's scheme) including at any time while the applicant is in receipt of such a reduction.

**32.2** (2) the applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a 'relevant change of circumstances') by giving notice to the authority:

- (a) in writing: or
- (b) by telephone—
  - (i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone: or
  - (ii) in any case or class of case where the authority determines that notice may be given by telephone: or
- (c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, is later.

**32.3** (3) the duty imposed on a person by sub-paragraph (1) does not extend to notifying:

- (a) changes in the amount of Council Tax payable to the authority:
- (b) changes in the age of the applicant or that of any member of his family:
- (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.

- 32.4** (4) for the purposes of sub-paragraph (3)(c) 'relevant benefit' means Income Support, an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support Allowance or Universal Credit.
- 32.5** (5) notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- 32.6** (6) the duty imposed on a person by sub-paragraph (1) includes in the case of a person falling within class C (pensioners: alternative maximum Council Tax Reduction), giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of State Pension Credit, the date when this occurs.
- 32.7** (7) a person who has been awarded a reduction under an authority's scheme who is also on State Pension Credit must report:
- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides:
  - (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks or where the absence is from Great Britain, which exceeds or is likely to exceed 4 weeks.
- 32.8** (8) in addition to the changes required to be reported under sub-paragraph (7), a person whose State Pension Credit comprises only a savings credit must also report:
- (a) changes affecting a child living with him which may result in a change in the amount of reduction under the authority's scheme allowed in his case, but not changes in the age of the child:
  - (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000:
  - (c) any change in the income or capital of
    - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 12 of

schedule 1 (circumstances in which income of a non-dependant is to be treated as applicant's): or

- (ii) a person to whom paragraph 14(2)(e) of schedule 1 refers (partner treated as member of the household under regulation 8), and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

**32.9** (9) a person who is entitled to a reduction under an authority's scheme and on State Pension Credit need only report to the authority the changes specified in sub-paragraphs (7) and (8)

### **33. Non dependent deductions**

- 33.1** (1) subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in maximum Council Tax Reduction shall be:
- (a) in respect of a non-dependant aged 18 or over in remunerative work, £5 x 1/7:
  - (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £5 x 1/7.
- 33.2** (2) only one deduction shall be made under this regulation in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.
- 33.3** (3) in applying the provisions of paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- 33.3** Where in respect of a day—
- (a) a person is a resident in a dwelling but is not himself liable for Council Tax in respect of that dwelling and that day:
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for Council Tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 or 77a of the 1992 Act (liability of spouses and civil partners): and
  - (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.
- 33.4** (4) no deduction shall be made in respect of any non-dependants occupying a applicant's dwelling if the applicant or his partner is—
- (a) blind or treated as blind by virtue of paragraph 13 of schedule 1 (additional condition for the disability premium): or
  - (b) receiving in respect of himself either—
    - (i) Attendance Allowance: or
    - (ii) the care component of the Disability Living Allowance.



- (iii) the daily living component of Personal Independence Payment
- (iv) the daily living component of Adult Disability Payment
- (v) Armed Forces Independence Payment

- 33.5** (5) no deduction shall be made in respect of a non-dependant if—
- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere: or
  - (b) he is in receipt of a training allowance paid in connection with a youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990: or
  - (c) he is a full-time student within the meaning of part 5 (students): or
  - (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
    - (i) 'patient' has the meaning as defined in this scheme: and
    - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- 33.6** (6) no deduction shall be made in respect of a non-dependant—
- (a) who is on Income Support, State Pension Credit an Income-Based Jobseeker's allowance or an Income-Related Employment and Support Allowance: or
  - (b) to whom schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that schedule refers.

**33.7** (7) in the application of paragraph (2) there shall be disregarded from his weekly gross income—

- (a) any Attendance Allowance, Disability Living Allowance, Child Disability Payment, Armed Forces Independence Payment, Personal Independence Payment or Adult Disability Payment received by him:
- (b) any payment made under the Macfarlane Trust, the Macfarlane (special payments) trust, the Macfarlane (special payments) (no.2) trust, the Fund, the Eileen trust, MFET limited, the Skipton fund, the Caxton foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the National Emergencies Trust, the Victims of Overseas Terrorism Compensation Scheme or the Independent Living Fund (2006) which had his income fallen to be calculated under the calculation of income other than earnings rules in this scheme, would have been disregarded under income in kind rules: and
  - (ba) any Grenfell Tower payment
  - (bb) any child abuse payment
  - (bc) any Windrush payment
  - (bd) any Post Office compensation payment;
  - (be) any vaccine damage payment;
- (c) any payment which had his income fallen to be calculated under the calculation of income other than earnings rules in this scheme would have been disregarded under payments made under certain trusts and certain other payments.
- (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
  - (i) “patient has the meaning given in paragraph 5(6) of this schedule and
  - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (e) he is not residing with the applicant because he is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006 who is absent, while on operations, from the dwelling usually occupied as their home”

## **34. Council Tax Reduction taper**

- 6.1** The prescribed percentage for the purpose the local authority Council Tax Reduction scheme, (percentage of excess of income over the applicable amount which is deducted from maximum, Council Tax benefit), shall be 20 per cent.

## **35. Capital limit and calculation of tariff income from capital for local authority Reduction Scheme**

- 35.1** Tariff income is applied at £1 per £250 over £6000, which applies to protected groups only.
- 35.2** There is a prescribed capital limit for working age applicants of £6,000, except for those protected under classes C and D and those who are defined as war pensioners, who are of working age.
- 35.3** (1) where the applicant's capital calculated in accordance with this part exceeds £6,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £6,000 but not exceeding £16,000.
- 35.4** (2) notwithstanding paragraph (1) where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £1.
- 35.5** (3) for the purposes of paragraph (1), capital includes any income treated as capital under the schedule of the local authority Reduction Scheme.

## **36. Date of claim and date on which entitlement begins**

- 36.1** The date of claim for a reduction will be date of the applicant first notifying, by whatever means, the authority of an intention to make an application where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date the application form was issued to the applicant.
- 36.2** In any other case, the date of claim will be the date on which the application is received at the offices of the authority any person to whom or in respect of whom an application for a reduction under an authority's scheme is made, and who is otherwise entitled to that reduction, shall be so entitled from the reduction week following the date of claim where a person is otherwise entitled to a reduction under that scheme and becomes liable for the first time for the authority's Council Tax in respect of a dwelling of which he is a resident in the reduction week in which his date of claim falls, he shall be so entitled from the first day of liability in that reduction week.

**36.3** Any claim where a customer makes an intention to claim Council Tax Reduction (or where the LA receives an early notification), for Universal Credit, the date of claim will be paid from the Monday after the intention to claim is made as long as the form is received at a designated office within 4 weeks of the date issued.

# Matters applicable to all applicants

## 1. Citation, commencement and application

This is the commencement order to bring the Council Tax Reduction Schemes (Prescribed Requirements) Regulations into force on 1 April 2013

- 1.1 (1) these Regulations may be cited as the Council Tax Reduction Schemes (prescribed requirements) (England) Regulations 2012 and come into force on 27 November 2012.
- 1.2 (2) these Regulations apply in relation to billing authorities in England.
- 1.3 (3) these Regulations apply in relation to Council Tax Reduction Schemes made by billing authorities for financial years beginning on or after 1 April 2013.

## 2. Interpretation

**2.1** This contains extensive definitions of terms used throughout the prescribed scheme. Paragraph 2 provides for the rounding of pennies, paragraphs 3 and 4 prescribe when a person is 'on' Jobseeker's Allowance (Income Based) or an Income Related Employment and Support Allowance. Paragraph 5 defines 'estrangement' and paragraph 6 defines who shall be treated as in receipt of State Pension Credit.

**2.2** Unless otherwise stated any reference to a schedule or regulation will be in accordance with the Council Tax Reduction Schemes (Prescribed requirements) Regulations.

**2.3** In this Council Tax Reduction Scheme—

'the 1992 Act' means the Local Government Finance Act 1992:

'abbeyfield home' means an establishment run by the Abbeyfield society including all bodies corporate or unincorporated which are affiliated to that society:

'adoption leave' means a period of absence from work on ordinary or additional adoption leave by virtue of section 75a or 75b of the Employment Rights Act 1996**(b)**:

'adult disability payment' has the meaning given in regulation 2 of the DAWAP Regulations:

'AFIP' means an Armed Forces Independence Payment payable in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the armed forces(pensions and compensation) Act 2004**(a)**:

(a) 1992 c. 14: section 113(1) and (2) were amended by section 127 of, and paragraph 40 and 52 of schedule 7 to, the Local Government Act 2003 (c. 26) and section 80 of the Localism Act 2011 (c. 20): schedule 1a was inserted by section 10 of the Local Government Finance Act 2012 (c. 17).

(b) 1996 (c. 18): sections 75a and 75b were inserted by section 3 of the Employment Act 2002 (c. 22) and were amended by section 11 of, and paragraphs 33 and 34 of schedule 1 to, the Work and Families Act 2006 (c. 18).

'alternative maximum Council Tax Reduction' means the amount determined in accordance with part 4 of schedule 1 and schedule 3 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations :

'appropriate DWP office' means an office of the Department for Work and Pensions dealing with State Pension Credit or claim office which is normally open to the public for the receipt of claims for Income Support, a Jobseeker's Allowance or an Employment and Support Allowance:

"approved blood scheme" means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;

'assessment period' means such period over which income falls to be calculated:

'applicable amount' means the amount calculated in accordance with paragraph 6 of schedule 1 and schedule 2:

'applicant' means a person who has made an application:

'application' means an application for a reduction under a scheme:

'assessment period' means:

- (a) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 20 of schedule 1 for the purpose of calculating the weekly earnings of the applicant: or
- (b) in relation to any other income, the period determined in accordance with paragraph 17 of schedule 1 for the purpose of calculating the weekly income of the applicant:

'Attendance Allowance' means:

- (a) an Attendance Allowance under part 3 of the Social Security Contributions and Benefits Act **(b)**:
- (b) an increase of disablement pension under section 104 or 105 of that act:
- (c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (civilians) Scheme 1983**(c)** or any analogous payment: or
- (d) any payment based on need for attendance which is paid as part of a war disablement pension:

'basic rate' has the meaning given by the Income Tax Act 2007**(d)**:

'the Benefit Acts' means the Social Security Contributions and Benefits Act, the Jobseeker's Act 1995**(e)**, the State Pension Credit Act 2002**(f)** and the Welfare Reform Act 2007 and the Pensions Act 2014 **(g)**:

'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:

'care home' has the meaning given by section 3 of the Care Standards Act 2000**(h)** and in Scotland means a care home service within the meaning given by section 2(3) of the regulation of care (Scotland) Act 2001**(i)** and in Northern Ireland means a nursing home within the meaning of article 11 of the health and personal social services (quality,

improvement and regulation) (Northern Ireland) order 2003(j) or a residential care home within the meaning of article 10 of that order:

'the Caxton foundation' means the charitable trust of that name established on 28 March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from Hepatitis C and other persons eligible for payment in accordance with its provisions:

(a) 2004 c. 32.

(b) 1992 c. 4: relevant amendments are referenced in these Regulations.

(c) s.i. 1983/686: article 14 was substituted by article 2 of, and paragraph 3 of schedule 1 to s.i. 2001/420: articles 15 and 16 were both amended by article 2 of, and paragraph 4 of schedule 1 to, s.i. 2001/420: and article 16 was also amended by article 2 of s.i. 1984/1675.

(d) 2007 c. 3: section 989 defines basic rate by reference to section 6(2). section 6(2) was amended by section 5 of the Finance

Act 2008 (c. 9) and section 6 of, and paragraphs 1 and 2 of part 1 of schedule 2 to, the Finance Act 2009 (c. 10).

(e) 1995 c. 18.

(f) 2002 c. 16.

(g) 2007 c. 5.

(h) 2000 c. 14: section 3 was amended by section 95 of, and paragraph 4 of schedule 5 to, the Health and Social Care Act 2008 (c. 14).

(i) 2001 asp 8.

(j) s.i. 2003/431 (n.i. 9).

'child' means a person under the age of 16:

'Child Benefit' has the meaning given by section 141 of the Social Security Contributions and Benefits Act (a):

'Child disability payment' has the meaning given by regulation 2 of the DACYP Regulations

'Child Tax Credit' means a Child Tax Credit under section 8 of the Tax Credits Act 2002(b):

'claim' means a claim for Council Tax Reduction:

'applicant' means a person claiming Council Tax Reduction:

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

'concessionary payment' means a payment made under arrangements made by the Secretary of State with the consent of the treasury which is charged either to the National Insurance fund or to a departmental expenditure vote to which payments of benefit or Tax Credits under the benefit acts or the Tax Credits Act 2002(c) are charged:



‘the consequential provisions Regulations’ means the Housing Benefit and Council Tax Benefit (consequential provisions) Regulations 2006 (as amended):

‘Contributory Employment and Support Allowance’ means an allowance under part 1 of the Welfare Reform Act 2007(d) as amended by the provisions of schedule 3, and part 1 of schedule 14 to the Welfare Reform Act 2012 that remove references to an income-related allowance and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that part has effect apart from those provisions.

‘Council Tax benefit’ means Council Tax Benefit under part 7 of the Social Security Contributions and Benefits Act:

‘couple’ has the meaning given by regulation 4 of these Regulations:

‘the DACYP Regulations’ means the Disability Assistance for Children and Young People (Scotland) Regulations 2021:

‘the DAWAP Regulations’ means the Disability Assistance for Working Age People (Scotland) Regulations 2022:

‘date of claim’ means the date on which the claim is made, or treated as made,  
‘default scheme Regulations’ means the Council Tax Reduction Schemes (default scheme) (England) Regulations 2012(e):

‘designated office’ means the office of an authority designated by it for the receipt of applications:

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

(b) by reference upon or with such a form to some other document from it and sent by electronic means or otherwise on application and without charge: or

(c) by any combination of the provisions set out in paragraphs (a) and (b):

‘Disability Living Allowance’ means a Disability Living Allowance under section 71 of the Social Security Contributions and Benefits Act (f):

‘earnings’ has the meaning given by paragraph 18, 20 or 21 of schedule 1 as the case may be:

‘the Eileen trust’ means the charitable trust of that name established on 29 March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions:

‘electronic communication’ has the same meaning as in section 15(1) of the electronic

communications Act 2000(g):

‘employed earner’ is to be construed in accordance with section 2(1)(a) of the Social Security Contributions and Benefits Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay:

‘Employment and Support Allowance Regulations’ means the Employment and Support Allowance Regulations 2008:

‘enactment’ includes an enactment comprised in, or in an instrument made under, an act of the Scottish Parliament or the National Assembly for Wales:

‘extended reduction’ means a reduction under a scheme for which a person is eligible under part 7 of schedule 1 or paragraph 2 of schedule 8:

‘extended reduction period’ means the period for which a person is in receipt of an extended reduction in accordance with paragraph 39 of schedule 1:

(a) section 141 was amended by section 1 of the Child Benefit Act 2005 (c. 6).

(b) 2002 c. 21: section 8 has been repealed by section 147 of, and part 1 of schedule 14 to, the Welfare Reform Act 2012 (c. 5) but those provisions are not yet in force.

(c) 2002 c. 21.

(d) 2007 c. 5: part 1 concerns Employment and Support Allowance, amendments are referenced where relevant.

(e) s.i. 2012/2886.

(f) section 71 was amended by section 67 of the Welfare Reform and Pensions Act 1999 (c. 30). It has been repealed by section 90 of the Welfare Reform Act 2012 (c. 5), but that provision is not yet in force.

(g) 2000 c. 7: the definition of ‘electronic communication’ contained in section 15(1) was amended by section 406 of, and paragraph 158 of schedule 17 to, the Communications Act 2003 (c. 21).

‘extended reduction (qualifying contributory benefits)’ means a reduction under schedule 1 by which a person is eligible pursuant to paragraph 38 or 41 of schedule 1:

‘extended reduction period’ means the period for which an extended reduction is payable in accordance with these Regulations:

‘extended reduction (qualifying contributory benefits)’ means an award of Council Tax reduction payable pursuant to these Regulations:

‘family’ has the meaning given by regulation 6 of these Regulations:

‘the fund’ means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by the Secretary of State on 24 April 1992 or, in Scotland, on 10 April 1992:

“Grenfell Tower Support Payment” means a payment made for the purpose of providing compensation or support in respect of the fire on 14<sup>th</sup> June 2017 at Grenfell Tower;”

'guarantee credit' is to be construed in accordance with sections 1 and 2 of the state pension credit Act 2002(a):

'a guaranteed income payment' means a payment made under article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (compensation scheme) Order 2011(b):

"historical child abuse payment' means a payment made under –  
(a) Part 1 of the Historical Institutional Abuse (Northern Ireland) Act 2019  
(b) Part 4 of the Redress for Survivors (Historical Child Abuse in Care (Scotland) Act 2021

“the Horizon system” means any version of the computer system used by the Post Office known as Horizon, Horizon Legacy, Horizon Online or HNG-X;”;

'Housing Benefit' means Housing Benefit under part 7 of the Social Security Contributions and Benefits Act:

'Immigration and Asylum Act' means the Immigration and Asylum Act 1999:

'an Income-Based Jobseeker's allowance' and 'a joint-claim Jobseeker's Allowance' have the meanings given by section 1(4) of the Jobseekers Act 1995(c):

'Income-Related Employment and Support Allowance' means an Income-Related allowance under part 1 of the Welfare Reform Act 2007:

'Income Support Regulations' means the Income Support (general) Regulations 1987: 'independent hospital':

(a) in England means a hospital as defined by section 275 of the National Health Service Act 2006(d) that is not a Health Service hospital as defined by that section:

(b) in Wales has the meaning given by section 2 of the Care Standards Act 2000(e): and

(c) in Scotland means an independent Health Care Service as defined by section 10f of the National Health Service (Scotland) Act 1978(f):

'the Independent Living Fund (2006)' means the trust of that name established by a deed dated 10 April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part:

'invalid carriage or other vehicle' means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant: 'Jobseekers Act' means the Jobseekers Act 1995:

'Jobseeker's Allowance Regulations' means the Jobseeker's Allowance Regulations 1996:

'the London bombings relief charitable fund' means the company limited by guarantee

(number 5505072), and registered charity of that name established on 11 July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7 July 2005:

"the London Emergencies Trust" means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2017;

'lone parent' means a person who has no partner and who is responsible for and a member of the same household as a child or young person:

'the MacFarlane (special payments) trust' means the trust of that name, established on 29 January 1990 partly out of funds provided by the secretary of state, for the benefit of certain persons suffering from haemophilia:

'the MacFarlane (special payments) (no 2) trust' means the trust of that name, established on 3 May 1991 partly out of funds provided by the secretary of state, for the benefit of certain persons suffering from haemophilia and other beneficiaries:

(a) 2002 c. 16.

(b) s.i. 2011/517.

(c) 1995 c. 18: subsection (4) was amended by sections 59 and 88 of, and paragraphs 1, 2 and 4 of schedule 7 and part 5 of schedule 13 to, the welfare reform and Pensions Act 1999 (c. 30): section 4 of the Welfare Reform Act 1999 (c. 24): section 254 of, and paragraph 118 of schedule 24 to, the Civil Partnership Act 2004 (c. 33). It has now been repealed by section 147 of, and part 1 of schedule 14 to, the Welfare Reform Act 2012 (c. 5) but those provisions have not yet been brought into force.

(d) the definition of 'health service hospital' has been amended (to remove the reference to a primary care trust) by section 55 of, and paragraph 138 of schedule 4 to, the Health and Social Care Act 2012 (c. 7). That amendment is not yet in force.

(e) 2000 c. 14: section 2 was amended by section 95 of, and paragraphs 1 and 3 of schedule 5 to, the health and social care Act 2008 (c. 14).

(f) 1978 c. 29: section 10f was inserted by section 108 of the public services reform (Scotland) Act 2010 (asp 8).

'the MacFarlane trust' means the charitable trust, established partly out of funds provided by the Secretary of State to the haemophilia society, for the relief of poverty or distress among those suffering from haemophilia:

'main phase Employment and Support Allowance' means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007(a) or the applicant is a member of the work-related activity group":

'maternity leave' means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under part 8 of

the Employment Rights Act 1996**(b)**:

'maximum Council Tax Reduction amount' means the amount determined in accordance with the respective schedules for pension age and working age customers.

'member of a couple' means a member of a married or unmarried couple:

'member of the work-related activity group' means a claimant who has or is treated as having limited capability for work under either:

(a) Part 5 of the Employment and Support Allowance Regulations 2008 other than by virtue of regulation 30 of those Regulations or

(b) Part 4 of the Employment and Support Allowance Regulations 2013 other than by virtue of Regulation 26 of those Regulations.

'MFET limited' means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products:

'mobility supplement' means a supplement to which paragraph 5(1)(a)(vii) of schedule 4 refers:

'mover' means an applicant who changes the dwelling in which the applicant is resident, and in respect of which the applicant is liable to pay Council Tax, from a dwelling in the area of one authority to a dwelling in the area of a second authority:

'the National Emergencies Trust' means the registered charity of that name (number 1182809) established on 28th March 2019;

'net earnings' means such earnings as are calculated in accordance with paragraph 19 of schedule 1:

'net profit' means such profit as is calculated in accordance with paragraph 29 of schedule 1:

'new dwelling' means, for the purposes of the definition of 'second authority' and paragraph 41 of schedule 1, the dwelling to which an applicant has moved, or is about to move, in which the applicant will be resident:

'non-dependant' has the meaning given by regulation 9:

'non-dependant deduction' means a deduction that is to be made under these Regulations

'occupational pension' means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases:

‘partner’, in relation to a person, means—

(a) where that person is a member of a couple, the other member of that couple: or

(b) where that person is polygamously married to two or more members of his household, any such member to whom he is married:

‘parental bereavement leave’ means leave under section 80EA of the Employment Rights Act 1996(6)

‘paternity leave’ means a period of absence from work on paternity leave by virtue of section 80a or 80b of the Employment Rights Act 1996:

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

(a) 2007 c. 5: subsection (1) of section 2 has been amended by sections 33 and 35 of, and paragraphs 22 and 24 of schedule 3 and paragraph 6 of schedule 5 to, the Welfare Reform Act 2012 (c. 5). section 4 has been repealed by section 147 of, and paragraph 1 of schedule 14 to, that act. none of those provisions are yet in force.  
(b) 1996 c. 18.

‘pensionable age’ has the meaning given by the rules in paragraph 1 of schedule 4 to the Pensions Act 1995(a):

‘pensioner’ has the meaning given by regulation 3(a):

‘person on Income Support’ means a person in receipt of Income Support:

‘person treated as not being in Great Britain’ has the meaning given by regulation 12:

‘person who is not a pensioner’ has the meaning given by regulation 3(b)

personal Independence Payment' has the meaning given by part 4 of the Welfare Reform Act 2012:

'personal pension scheme' means—

(a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993**(b)**:

(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988**(c)** or a substituted contract within the meaning of section 622(3) of that act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of schedule 36 to the Finance Act 2004**(d)**:

(c) a personal pension scheme approved under chapter 4 of part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of schedule 36 to the Finance Act 2004:

'policy of life insurance' means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life:

'polygamous marriage' means any marriage to which regulation 5 applies:

“the Post Office” means Post Office Limited (registered number 02154540);

“Post Office compensation payment” means a payment made by the Post Office or the Secretary of State for the purpose of providing compensation or support which is—

(a) in connection with the failings of the Horizon system; or

(b) otherwise payable following the judgment in *Bates and Others v Post Office Ltd* ((No. 3) “Common Issues”)

'qualifying age for State Pension Credit' means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002):

(a) in the case of a woman, pensionable age: or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man:

'qualifying contributory benefit' means:

(a) Severe Disablement Allowance:

(b) Incapacity Benefit:

(c) Contributory Employment and Support Allowance:

'qualifying Income-Related benefit' means:



(a) Income Support:

(b) Income-Based Jobseeker's Allowance:

(c) Income-Related Employment and Support Allowance:

'qualifying course' means a qualifying course as defined for the purposes of parts 2 and 4 of the job seeker's allowance Regulations 1996(e):

'qualifying person' means a person in respect of whom a Grenfell Tower support payment, a historical child abuse payment, Windrush payment, a Post Office Compensation Payment or a vaccine damage payment has been made or payment has been made from the fund, the Eileen trust, MFET limited, the Skipton fund, the Caxton foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Windrush Compensation Scheme, the National Emergencies Trust, the Victims of Overseas Terrorism Compensation Scheme or the London bombings relief charitable fund.

(a) 1995 c. 26: paragraph 1 has been amended by section 14 of, and paragraph 39 of schedule 2 to, the State Pension Credit Act 2002 (c. 16): section 28 of, and paragraph 13 of schedule 3 to the Welfare Reform Act 2007 (c. 5): section 13 of, and paragraph 4 of schedule 3 to, the Pensions Act 2007 (c. 22): and section 1 of the Pensions Act 2011 (c. 19).

(b) 1993 c. 48: the definition of 'personal pension scheme' was substituted by section 239 of the Pensions Act 2004 (c. 35) and amended by sections 70 and 114 of, and paragraph 23 of schedule 20 and paragraph 3 of schedule 27 to, the Finance Act 2007 (c. 11).

(c) 1988 c. 1.

(d) 2004 c. 12.

(e) s.i. 1996/207.

'resident' has the meaning it has in the Local Government Finance Act 1992 :

'reduction week' means a period of seven consecutive days beginning with a Monday and ending with a Sunday:

'relative' means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece:

'relevant week', in relation to any particular day, means the week within which the day in question falls:

'remunerative work' has the meaning given by regulation 10:

'rent' means 'eligible rent' to which regulation 12 of the Housing Benefit (persons who have acquired the qualifying age for State Pension Credit) Regulations 2006(a) refer, less any deductions in respect of non-dependants which fall to be made under paragraph 8 of schedule 1 (non-dependant deductions):

'savings credit' is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002:

"the Scottish Infected Blood Support Scheme" means the scheme of that name administered by the Common Services Agency (constituted under section 10 of

the National Health Service (Scotland) Act 1978**(b)**);

'second authority' means the authority to which a mover is liable to make payments for the new dwelling:

'self-employed earner' is to be construed in accordance with section 2(1)(b) of the Social Security Contributions and Benefits Act :

(a) s.i. 2006/214: regulation 12 has been amended by s.i. 2007/1356 and s.i. 2007/2869.

(b) 1978 c. 29; section 10 deals with the establishment of the Common Services Agency, to which the Secretary of State may delegate functions.

'Shared Parental Leave' means leave under section 75E or 75G of the Employment Rights Act 1996:

'single applicant' means an applicant who neither has a partner nor is a lone parent:

'the Skipton fund' means the ex-gratia payment scheme administered by the Skipton fund limited, incorporated on 25 March 2004, for the benefit of certain persons suffering from hepatitis c and other persons eligible for payment in accordance with the scheme's provisions:

'sports award' means an award made by one of the sports councils named in section 23(2) of the National Lottery etc. Act 1993**(a)** out of sums allocated to it for distribution under that section:

'the Social Security Contributions and Benefits Act ' means the Social Security contributions and benefits Act 1992**(b)**:

'State Pension Credit' means State Pension Credit under the State Pension Credit Act 2002:

'statutory parental bereavement pay' means a payment to which a person is entitled in accordance with section 171ZZ6 of the Social Security Contribution and Benefits Act 1992(7)

'student' means a person, other than a person in receipt of a training allowance, who is attending or undertaking:

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

(b) a qualifying course:

'Tax year' means a period beginning with 6 April in one year and ending with 5 April in the next:

'the Tax Credits Act' means the Tax Credits Act 2002:

'training allowance' means an allowance (whether by way of periodical grants or otherwise) payable:

- (a) out of public funds by a government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh ministers:
- (b) to a person for his maintenance or in respect of a member of his family: and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh ministers, but it does not include an allowance paid by any government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973(c), or is training as a teacher:

'the trusts' (except where the context otherwise requires) means the MacFarlane trust, the Macfarlane (special payments) trust and the MacFarlane (special payments) (no 2) trust and 'trustees' is to be construed accordingly:

'Universal Credit' has the meaning given by section 1 of the Welfare Reform Act 2012(d):

""vaccine damage payment"" means a payment made under the Vaccine Damage Payments Act 1979

""the Victims of Overseas Terrorism Compensation Scheme"" means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010

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

'war disablement pension' means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (earnings and pensions) Act 2003(e):

(a) 1993 c. 39: subsection (2) was amended by article 2 of s.i. 1996/3095 and article 2 of s.i. 1999/1563.

(b) 1992 c. 4.

(c) 1973 c. 50: section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and subsequently amended by section 29 of, and part 1 of schedule 7 to, the Employment Act 1989 (c. 38) and, in relation to Scotland only, section 47 of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(d) 2012 c. 5.

(e) 2003 c. 1: subsection (2) was inserted by section 19 of the Finance Act 2005 (c. 7).

'war pension' means a war disablement pension, a war widow's pension or a war widower's pension:

‘war widow’s pension’ means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (earnings and pensions) Act 2003 in respect of the death or disablement of any person:

‘war widowers pension’ means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (earnings and pensions) Act 2003 in respect of the death or disablement of any person:

‘water charges’ means:

(a) as respects England and Wales, any water and sewerage charges under chapter 1 of part 5 of the Water Industry Act 1991(a),

(b) as respects Scotland, any water and sewerage charges established by Scottish water under a charges scheme made under section 29a of the Water Industry (Scotland) Act 2002(b), in so far as such charges are in respect of the dwelling which a person occupies as his home:

“the We Love Manchester Emergency Fund” means the registered charity of that name (number 1173260) established on 30th May 2017

‘Welfare Reform Act’ means the Welfare Reform Act 2007:

‘the Windrush Compensation Scheme’ means -

(a) the scheme of that name operated by the Secretary of State for the purpose of compensating individuals who have suffered loss in connection with being unable to demonstrate their lawful status in the United Kingdom and;

b) the policy entitled “Windrush Compensation Scheme: Support in urgent and exceptional circumstances” which was operated by the Secretary of State for the purpose of compensating individuals who, for urgent and exceptional reasons, required support in advance of the scheme referred to in paragraph (a) of this definition being operational.

‘Windrush Payment’ means a payment made under the Windrush Compensation Scheme (Expenditure) Act 2020

‘Working Tax Credit’ means a Working Tax Credit under section 10 of the Tax Credits Act 2002:

‘young person’ means a person who falls within the definition of qualifying young person in section 142 of the Social Security Contributions and Benefits Act (c).

(2) in these Regulations, where an amount is to be rounded to the nearest penny,

a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.

(3) for the purpose of these Regulations, a person is on an Income-Based Jobseeker's Allowance on any day in respect of which an Income-Based Jobseeker's Allowance is payable to him and on any day—

(a) in respect of which he satisfies the conditions for entitlement to an Income-Based Jobseeker's Allowance but where the allowance is not paid because of a reduction in accordance with section 19 or 19a or Regulations made under section 17a or 19b of the Jobseeker's Act 1995(d) (circumstances in which a Jobseeker's Allowance is not payable):

(b) which is a waiting day for the purposes of paragraph 4 of schedule 1 to that act and which falls immediately before a day in respect of which an Income-Based Jobseeker's Allowance is payable to him or would be payable to him but for section 19 or 19a or Regulations made under section 17a or 19b of that act: or

(c) in respect of which an Income-Based Jobseeker's Allowance would be payable but for a restriction imposed pursuant to section 6b, 7, 8 or 9 of the Social Security Fraud Act 2001(e) (loss of benefit provisions).

d) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim Jobseeker's Allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20a of that act:

(4) for the purposes of these Regulations, a person is on an Income-Related Employment and Support Allowance on any day in respect of which an Income-Related Employment and Support Allowance is payable to him and on any day:

(a) in respect of which he satisfies the conditions for entitlement to an Income-Related Employment and Support Allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act 2007 (disqualification): or

(b) which is a waiting day for the purposes of paragraph 2 of schedule 2 to that act and which falls immediately before a day in respect of which an Income-Related Employment and Support Allowance is payable to him or would be payable to him but for section 18 of that act.

(a) 1991 c. 56.

(b) 2002 asp 3: section 29a was substituted together with sections 29b-29g for section 29 as originally enacted by section 21 of the Water Services etc (Scotland) Act 2005 (asp 3).

(c) section 142 was amended by section 1 of the Child Benefit Act 2005 (c. 6).

(d) 1995 c. 18: section 19 (together with sections 19a to 19c), has been substituted by section 46 of the Welfare Reform Act 2012 (c. 5) but that amendment is not yet in force (sections 19a to 19c are however): section 17a has been repealed by section 147 of, and part 4 of schedule 14 to, the Welfare Reform Act 2012 although that provision is not yet in force. In the meantime amendments have been made to section 17a by sections 48 and 59 of, and schedules 7 and 14 to, that act.

(e) 2001 c. 11: section 6b was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of schedule 2 and part 1 of

schedule 7 to, the Welfare Reform Act 2009 (c. 24): sections 31, 113, 118, 119, 121 and 147 of, and paragraphs 56 and 58 of schedule 2, paragraphs 15 and 16 of schedule 3, parts 1 and 12 of schedule 14, to the Welfare Reform Act 2012 (c. 5) – of which only those made by section 113 (to subsection (1)(b)) are in force. section 7 was amended by section 14 of, and part 3 of schedule 3 to, the State Pension Credit Act 2002 (c. 16): sections 28 and 49 of, and paragraph 23 of schedule 3 to, the Welfare Reform Act 2007 (c. 5): sections 9, 24 and 58 of, and paragraphs 9 and 11 of schedule 2, part 1 of schedule 4 and part 1 of schedule 7 to, the Welfare Reform Act 2009 (c. 24) (of which those made by sections 9, 31 and schedule 7 are not yet in force): article 3 of s.i. 2011/2298: sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of schedule 2, paragraphs 15 and 17 of schedule 3 and part 1 of schedule 14 to, the Welfare Reform Act 2012. (c. 5), none of which are yet in force. section 8 has been repealed by section 147 of, and part 1 of schedule 14, to the Welfare Reform Act 2012 (c. 5), but that repeal is not yet in force. amendments have also been made by sections 1, 24, and 58 of, and part 1 of schedule 4 and part 3 of schedule 7 to, the Welfare Reform Act 2009 (c. 24): sections 31, 48, 113 and 147 of, and paragraphs 56 and 60 of schedule 2, paragraph 12 of schedule 7 and part 12 of schedule 14 to, the Welfare Reform Act 2012 (c. 5), of which only those made by section 113 are in force. section 9 was amended by section 14 of, and part 3 of schedule 2 to, the State Pension Credit Act 2002 (c. 16): sections 28 of, and paragraph 23 of schedule 3 to, the Welfare Reform Act 2007 (c. 5):

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

(6) in these regulations, references to any person in receipt of State Pension Credit includes a person who would be in receipt of State Pension Credit but for regulation 13 of the State Pension Credit Regulations 2002(a) (small amounts of State Pension Credit).

(7) in these regulations, references to a person in class a, b or c (as the case may be) is a reference to class A, B or C described in paragraphs 2 to 4 of schedule 1.

(8) References in these regulations to an applicant participating as a service user are to -

(a) a person who is being consulted by or on behalf of -

(i) a body which has a statutory duty to provide services in the field of health, social care or social housing: or

(ii) a body which conducts research or undertakes monitoring for the purposes of planning or improving such services,

in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or

(b) the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph

### **3. Evidence and information**

**3.1** Cheshire West and Chester Council will request any information and evidence which it deems to be necessary to establish evidence of identify and entitlement, and to determine and calculate an award of Council Tax Reduction. Any request for information or evidence must be supplied within one calendar month (or within such longer period as Cheshire West and Chester Council deems to be reasonable)

**3.2** Cheshire West and Chester Council will require customers who wish to apply for a Council Tax Reduction to provide evidence of their National Insurance number and that of their partner

**3.3** Under the Council Tax (administration and enforcement) Regulations 1992 local authorities have a duty to take reasonable steps to ascertain whether a person is entitled to a discount. There are also duties upon Counciltaxpayers to inform a local authority where, after being informed of an assumption as to a discount granted in their case they have reason to believe they are in fact not entitled to a discount, or are entitled to a discount of a smaller amount.

#### **4. Meaning of ‘pensioner’ and ‘person who is not a pensioner’**

This defines pensioners and requires ‘a person’ to have ‘attained the qualifying age for State Pension Credit’

##### **4.1** In this scheme a person is—

###### (a) a ‘pensioner’ if—

- (i) he has attained the qualifying age for State Pension Credit: and
- (ii) he is not and if he has a partner, his partner is not—

(aa) a person on Income Support, on an Income-Based Jobseeker’s Allowance or on an Income-Related employment and support allowance: or

(bb) a person with an award of Universal Credit: and

###### (b) a ‘person who is not a pensioner’ if—

- (i) he has not attained the qualifying age for State Pension Credit: r
- (ii) he has attained the qualifying age for State Pension Credit and he, or if he has a partner, his partner, is—

(aa) a person on Income Support, on Income-Based Jobseeker’s allowance or an Income-Related Employment and Support Allowance: or

(bb) a person with an award of Universal Credit.

##### **4.2** For the purposes of sub-paragraphs (a)(ii)(bb) and (b)(ii)(bb) in paragraph (1) an award of universal credit is to be disregarded during the relevant period.

##### **4.3** In this regulation— “assessment period” has the same meaning as in the Universal Credit Regulations 2013(a); “relevant period” means the period beginning with the day on which P and each partner of P has attained the qualifying age for state pension credit and ending with the day on which the last assessment period for universal credit ends.”



## **5. Meaning of ‘couple’**

This defines couples-

### **5.1** (1) in this scheme ‘couple’ means—

(a) Two people who are married to, or civil partners of, each other and are members of the same household; or

(b) Two people who are not married to, or civil partners of, each other but are living together as if they were a married couple or civil partners.

### **5.2** (2) two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

sections 9 and 58 of, and part 1 of schedule 7 to, the Welfare Reform Act 2009 (c. 24), none of which are in force: sections 31, 113 and 147 of, and paragraphs 56 and 61 of schedule 2 and part 1 of schedule 14 to, the Welfare Reform Act 2012. (c. 5), of which only those made by section 113 are in force.  
(a) s.i. 2002/179

## 6. Polygamous marriages

This makes provision for polygamous marriages undertaken lawfully

### 6.1 (1) this applies to any case where—

- (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy: and
- (b) either party to the marriage has for the time being any spouse additional to the other party.

### 6.2 (2) for the purposes of regulation 3 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012 neither party to the marriage is to be taken to be a member of a couple.

### 6.3 applicable amounts will be found in the schedules

## 7. Meaning of ‘family’

This carries provisions for lone parents, couples, children and young persons

### 7.1 (1) in this scheme ‘family’ means—

- (a) a couple:
- (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person: or
- (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.

### 7.2 (2) the references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145a of the Social Security Contributions and Benefits Act (a) applies for the purposes of entitlement to Child Benefit, but only for the period prescribed under section 145a(1).

### 7.3 (3) the references to a young person in paragraph (1)(b) and (c) do not include a young person who is—

- (a) on Income Support, an Income-Based Jobseeker’s Allowance or an Income-Related Employment and Support Allowance:
- (b) a person to whom section 6 of the Children (leaving care) Act 2000(b) (exclusion from benefits) applies; or
- (c) entitled to an award of Universal Credit

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

This prescribes when a person is responsible for a child

- 8.1** (1) a person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom regulation 6(2) of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012 applies.
- 8.2** (2) where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person must be treated for the purposes of paragraph (1) as normally living with—
- (a) the person who is receiving Child Benefit in respect of that child or young person, or
  - (b) if there is no such person—
    - (i) where only one claim for Child Benefit has been made in respect of him, the person who made that claim, or
    - (ii) in any other case the person who has the primary responsibility for him.
- 8.3** (3) for the purposes of this scheme a child or young person is the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this scheme is to be treated as not so responsible.

(a) section 145a was inserted by section 55(1) of the Tax Credits Act 2002 (c.21). it was subsequently amended by paragraph 48 of schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 24 of schedule 1 to the Child Benefit Act 2005 (c. 6).

(b) 2000 c. 35: section 6 has been amended by sections 9 and 58 of, and paragraph 1 of schedule 7 to, the Welfare Reform Act 2009 (c. 24) but those provisions are not yet in force (and section 9 of that act has now been repealed by section 147 of the Welfare Reform Act 2012 (c. 5) – also not yet in force).

## **9. Households**

This defines when family members are and are not treated as members of the same household

- 9.1** (1) subject to paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated as responsible for a child or young person under this scheme, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.
- 9.2** (2) a child or young person is not to be treated as a member of the applicant's household where he is:

- (a) placed with the applicant or his partner by a local authority under section 22c or 23(2)(a) of the Children Act 1989(a) or by a voluntary organisation under section 59(1)(a) of that act or section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained) (b), or in Scotland boarded out or placed with the applicant or his partner under a relevant enactment: or
- (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption: or
- (c) placed for adoption with the applicant or his partner in accordance with the Adoption and children Act 2002(c), the adoption agencies (Scotland) Regulations 2009(d) or the adoption (Northern Ireland) order 1987(e).

**9.3** (3) subject to paragraph (4), paragraph (1) does not apply to a child or young person who is not living with the applicant and who:

- (a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment: or
- (b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption: or
- (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

**9.4** (4) an authority must treat a child or young person to whom paragraph (3)(a) applies as being a member of the applicant's household in any reduction week where:

- (a) that child or young person lives with the applicant for part or all of that reduction week: and
- (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

**9.5** (5) in this regulation 'relevant enactment' means

- (a) the Army Act 1955(f):
- (b) the Air Force Act 1955(g):

- (c) the Naval Discipline Act 1957(h):
- (d) the Matrimonial Proceedings (children) Act 1958(i):
- (e) the Social Work (Scotland) Act 1968(j):
- (f) the Family Law Reform Act 1969(a):
- (g) the Children and Young Persons Act 1969(b):
- (h) the Matrimonial Causes Act 1973(c):
- (i) the Children Act 1975(d):
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978(e):
- (k) the Adoption and Children (Scotland) Act 2007(f):
- (l) the Family Law Act 1986(g):
- (m) the Children Act 1989(h):
- (n) the Children (Scotland) Act 1995(i):
  
- (na) the Children's Hearings (Scotland) Act 2011, and
  
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012(j).

**(a) 1989 c. 41: section 23 was substituted by sections 22a to 22f by section 8(1) of the Children and Young Persons Act 2008**

**(c. 23). section 22c is in force in England but is not yet in force in Wales. section 59(1)(a) was amended by section 49 of the children Act 2004 (c. 31) and paragraph 2 of schedule 1 to the Children and Young Persons Act 2008.**

**(b) 2014 anaw 4.**

**(c) 2002 c. 38.**

**(d)s.i. 2009/154.**

**(e) s.i. 1987/2203 (n.i. 22).**

**(f) 1955 c. 18.**

**(g) 1955 c. 19.**

**(h)1957 c. 53.**

**(i)1958 c. 40.**

**(j) 1968 c. 49.**

## 10. Non dependants

This defines non dependents

**10.1** (1) In this scheme, 'non-dependant' means any person, except someone to whom paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.

**10.2** (2) this paragraph applies to:

- a) any member of the applicant's family:
- b) if the applicant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible:
- c) a child or young person who is living with the applicant but who is not a member of his household by virtue of this scheme:
- d) subject to paragraph (3), any person who, with the applicant, is jointly and severally liable to pay Council Tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act<sup>(k)</sup> (persons liable to pay Council Tax):
- e) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling:
- f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

(a) 1969 c. 46.

(b) 1969 c. 54

(c) 1973 c. 18.

(d) 1975 c. 72: this Act was repealed in respect of England and Wales by section 108(7) of, and schedule 15 to, the Children Act 1989 (c. 41). it continues to have effect in Scotland.

(e) 1978 c. 22.

(f) 2007 asp 4.

(g) 1986 c. 55.

(h) 1989 c. 41.

(i) 1995 c. 36.

(j) 2012 c. 10.

(k) 1992 c. 14: subsections (2) and (8) of section 6 were amended by article 2 of, and paragraph 8 of the schedule to, s.i.:1997/74: subsection (4) was amended by section 74 of the Local Government Act 1973 (c. 26).

**10.3** (3) excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following paragraphs applies is a non-dependant:

(a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either:

- (i) that person is a close relative of his or his partner: or
- (ii) the tenancy or other agreement between them is other than on a commercial basis:

(b) a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of a scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling:

(c) a person who becomes jointly and severally liable with the applicant for Council Tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the change giving rise to the new liability was not made to take advantage of a scheme.

## **11. Remunerative work**

This gives the definition of such work, based on a general requirement of 16 hours

**11.1** (1) subject to the following provisions of this regulation, a person must be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expecommon travel areation of payment.

**11.2** (2) subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard must be had to the average of hours worked over of work to be determined more accurately.

**11.3** (3) where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in establishing the average hours for which he is engaged in work.

**11.4** (4) where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will

fluctuate, the average of the hours, which he is expected to work in a week.

- 11.5** (5) a person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.
- 11.6** (6) a person on Income Support, an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support Allowance for more than 3 days in any reduction week must be treated as not being in remunerative work in that week.
- 11.7** (7) a person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave, or is absent from work because he is ill.
- 11.8** (8) a person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—
- (a) a sports award has been made, or is to be made, to him: and
  - (b) no other payment is made or is expected to be made to him.

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

This defines such people to be excluded from the scheme

- 12.1** (1) persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of schedule 1a to the 1992 Act and which must not be included in an authority's scheme.
- 12.2** (2) except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- 12.3** (3) a person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- 12.4** (4) for the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with:
- (a) regulation 13 of the European Economic Area Regulations(**b**)
    - (aa) regulation 14 of the EEA Regulations but only in a case where the right exists under that regulation because the person is -
    - (i) a jobseeker for the purpose of the definition of "qualified person" in regulation 6(1) of those Regulations or



(ii) a family member (within the meaning of regulation 7 of those regulations) of such a jobseeker

(b) regulation 16 of the European Economic Area Regulations(d), but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (5) of that regulation

**12.4A** (4A) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of -

(b) Appendix EU to the immigration rules made under section 3(2) of that act

(c) being a person with Zambrano right to reside as defined by Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that act; or

(d) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act.

**12.4B** (4B) Paragraph (4A)(b) does not apply to a person who— (a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and (b) would have a right to reside under the EEA Regulations if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (4)(a) or (b)

**12.5** (5) a person falls within this paragraph if the person is:

(za) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of :

(i) the Afghan Relocations and Assistance Policy; or  
(ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);

(zb) a person in Great Britain not coming within sub-paragraph (za) or (e) who left Afghanistan in connection with the collapse of the Afghan government that took place on 15<sup>th</sup> August 2021.

(zc) a person in Great Britain who was residing in Ukraine immediately before 1<sup>st</sup> January 2022, left Ukraine in connection with the Russian invasion which place on 24<sup>th</sup> February 2022 and;

- (i) has been granted leave in accordance with immigration rules made under Section 3(2) of the Immigration Act 1971;
- (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
- (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that act.

“(zd) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023, left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack and—

(i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971,

(ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or

(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;

(ze) a person who was residing in Sudan before 15th April 2023, left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan and—

(i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971,

(ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or

(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;”.

(a) a qualified person for the purposes of regulation 6 of the European Economic Area Regulations (f) as a worker or a self-employed person:

(b) a family member of a person referred to in sub-paragraph (a)

(c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the European Economic Area Regulations:

(ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (4A)(b), provided that the relevant person of Northern Ireland falls within paragraph (5)(a), or would do so but for the fact that they are not an EEA national;

(cb) a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020

(cc) a family member of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971

1 schedule 1a was inserted by section 9 of, and schedule 4 to, the Local Government Finance Act 2012 (c. ).

2 s.i. 2006/1003: regulation 13 was amended by regulation 3 of, and paragraph 6 of schedule 1 to, s.i. 2012/1547.

3 oj no l 158, 30.4.04, p 77.

4 regulation 15a was inserted by regulation 3 of, and paragraph 9 of schedule 1 to, s.i. 2012/1547: paragraph (4a) was inserted by regulation 2 of, and paragraph 3 of the schedule to, s.i. 2012/2560.

5 a consolidated version of this treaty was published in the official journal on 30.3.2010 c 83.

6 regulation 6(2) was amended by regulation 5 of, and paragraph 3 of schedule 2 to, s.i. 2011/544.

(d) a person recorded by the Secretary of State as a refugee within the definition in article 1 of the convention relating to the status of refugees done at geneva on 28 July 1951, as extended by article 1(2) of the protocol relating to the status of refugees done at new york on 31 January 1967:

(e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under Section 3(2) of the Immigration Act 1971.

(f) a person who has humanitarian protection granted under those rules:

(g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999(b) and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

(h) in receipt of income support or on an income-related employment and support allowance; or

(ha) in receipt of a income-based jobseeker's allowance and has a right to reside other than a right to reside failing within paragraph (4);

**12.6** (6) a person falls within this paragraph if the person is a crown servant or member of Her Majesty's forces posted overseas.

**12.7** (7) a person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a crown servant or member of Her Majesty's

forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.

**12.8** (8) in this regulation:

‘claim for asylum’ has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999(c):

‘crown servant’ means a person holding an office or employment under the crown:

“EEA national” has the meaning given in regulation 2(1) of the EEA Regulations

‘European Economic Area Regulations’ means the Immigration (European Economic Area) Regulations 2016: and ‘Her Majesty’s forces’ has the same meaning as in the Armed Forces Act 2006 and references to the EEA Regulations are to be read with Schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) Regulations 2020

“family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the EEA Regulations, except that regulation 7(4) of the EEA Regulations does not apply for the purposes of paragraphs (4B) and (5)(ca)

“relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971.”

(a) 1971 c. 77.

(b) 1999 c. 33.

(c) relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c. 41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations. (d) 2006 c. 52.

### **13. Persons treated as being in Great Britain**

This provision prescribes certain classes of workers treated as being in Great Britain.

- 13.1** (1) an applicant will be treated as a person from abroad if they are not habitually resident in the UK, Republic of Ireland, Channel Islands and the Isle of Man (common travel area, or CTA).
- 13.2** (2) even if an applicant is a well established resident he or she cannot be ‘habitually resident’ unless he or she is an European Economic Area or Swiss National. European Economic Area and Swiss Nationals and their family members have a right to reside in the common travel area , however the right to reside alone is not enough to satisfy the habitual residence rules.
- 13.3** (3) There are no groups of European Economic Area or Swiss Nationals who

are exempt from having to satisfy the following habitual residence rules:

- has the customer lived in the common travel area for at least five years?
- does the customer have a settled intention to stay in the UK?

**13.4** in considering the settled intention to stay there are five key factors to consider:

- 1) employment or prospect of finding it
- 2) reasons for coming to the UK
- 3) future intentions
- 4) centre of interest
- 5) financial viability of living in the UK.

## **14. Persons subject to immigration control**

Such persons are not to be included in the scheme.

**14.1** (1) Persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of schedule 1a to the 1992 Act and which must not be included in an authority's scheme.

**14.2** (2) 'person subject to immigration control' has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

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

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

**15.2** (2) in sub-paragraph (1), a 'period of temporary absence' means—

- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation in Great Britain where and for so long as—
  - (i) the person resides in that accommodation:
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let: and
  - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks, where he has entered the accommodation for the purpose of

ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs:

- (b) a period of absence within Great Britain not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as:
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
  - (iii) that period is unlikely to exceed 13 weeks:

- (c) a period of absence within Great Britain not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as:

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

- (d) subject to sub paragraphs (2F), (3C), (3E) and (3G) and where sub-paragraphs (2E) applies, a period of absence outside Great Britain not exceeding 4 weeks, beginning with the first day of that absence from Great Britain where and for so long as -

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resides is not let or sub-let; and
- (iii) the period of absence from Great Britain is unlikely to exceed 4 weeks.

(2A) The period of 13 weeks referred to in sub-paragraph (2)(b) shall run or continue to run during any period of absence from Great Britain.

(2B) Where—

(a) a person returns to Great Britain after a period of absence from Great Britain (period A);

(b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 13 weeks beginning with the first day of absence from that dwelling; and

(c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence, then any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(b).

(2C) The period of 52 weeks referred to in sub-paragraph (2)(c) shall run or continue to

run during any period of absence from Great Britain.

(2D) Where —

(a) a person returns to Great Britain after a period of absence from Great Britain (period A);

(b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 52 weeks beginning with the first day of absence from that dwelling; and

(c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence, then, any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(c).

(2E) This sub-paragraph applies where—

(a) a person is temporarily absent from Great Britain;

(b) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(2F) If the temporary absence referred to in sub-paragraph (2)(d) is in connection with the death of—

(a) the person's partner or a child or young person for whom the person or the person's partner is responsible;

(b) the person's close relative;

(c) the close relative of the person's partner; or

(d) the close relative of a child or young person for whom the person or the person's partner is responsible, then the period of 4 weeks in the opening words of sub-paragraph (2)(d) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks (and the reference in subparagraph

(iii) of that paragraph to a period of 4 weeks shall, where the period is extended, be taken as referring to the period as so extended).”;

**15.3** (3) is a person to whom sub paragraph 3A applies;:

(a) is detained in custody on remand pending trial or required, as a condition of bail, to reside:

(i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or

(ii) in premises approved under section 13 of the Offender Management Act 2007(a), or is detained in custody pending sentence upon conviction:

(b) is resident in a hospital or similar institution as a patient:

(c) is undergoing, or whose partner or dependent child is undergoing, medical treatment, or medically approved convalescence, in

accommodation other than residential accommodation:

- (d) is following a training course:
- (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere:
- (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment:
- (g) is, receiving medically approved care provided in accommodation other than residential accommodation:
- (h) is a student:
- (i) is receiving care provided in residential accommodation and is not a person to whom subparagraph (2)(a) applies: or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

(3A) This sub-paragraph applies to a person (“P”) who is—

- (a) detained in custody on remand pending trial;
- (b) detained pending sentence upon conviction; or
- (c) as a condition of bail required to reside—
  - (i) in a dwelling, other than a dwelling P occupies as P’s home; or
  - (ii) in premises approved under section 13 of the Offender Management Act 2007(a), and who is not also detained in custody following sentence upon conviction.

(3B) This sub-paragraph applies where—

- (a) a person is temporarily absent from Great Britain;
- (b) the person is a member of Her Majesty’s forces posted overseas, a mariner or continental shelf worker;
- (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(3C) Where sub-paragraph (3B) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as—

- (a) the person intends to return to the dwelling;
- (b) the part of the dwelling in which he usually resided is not let or sub-let;
- (c) the period of absence from Great Britain is unlikely to exceed 26 weeks.



(3D) This sub-paragraph applies where—

(a) a person is temporarily absent from Great Britain;

(b) the person is a person described in any of paragraphs (b), (c), (g) or (j) of subparagraph

(3);

(c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(3E) Where sub-paragraph (3D) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as—

(a) the person intends to return to the dwelling;

(b) the part of the dwelling in which he usually resided is not let or sub-let;

(c) the period of absence is unlikely to exceed 26 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.

(3F) This sub-paragraph applies where—

(a) a person is temporarily absent from Great Britain;

(b) the person is a person described in any of paragraphs (a), (d), (e), (f), (h) or (i) of sub-paragraph (3);

(c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(3G) Where sub-paragraph (3F) applies, a period of absence from Great Britain not exceeding 4 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as—

(a) the person intends to return to the dwelling;

(b) the part of the dwelling in which he usually resided is not let or sub-let;

(c) the period of absence is unlikely to exceed 4 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period:

**15.4** (4) this sub-paragraph applies to a person who is

detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental (a) 2007 c. 21. 20 Health Act 1983(a), or, in Scotland, under the provisions of the Mental Health (care and treatment) (Scotland) Act 2003(b) or the Criminal Procedure (Scotland) Act 1995(c) or in Northern Ireland under article 4 or 12 of the Mental Health (Northern Ireland) order 1986(d)): and

(c) on temporary release from detention in accordance with rules made under the provisions of the Prison Act 1952(e) or the Prisons (Scotland) Act 1989(f).

**15.5** (5) where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release:

- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling:
- (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention:
- (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay Council Tax in respect of a dwelling of which he is a resident.

**15.6** (6) in this paragraph:

continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any of the activities mentioned in section 11(2) of the Petroleum Act 1998(a);

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(b) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—

- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;
- (bb) after the definition of “medically approved” insert—

member of Her Majesty’s forces posted overseas” means a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(c)), who is absent from the main dwelling because the person has been posted outside of Great Britain to perform the duties of a member of Her Majesty’s regular forces or reserve forces;”;

and (cc) after the definition of “patient” insert—

““prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”;

‘medically approved’ means certified by a medical practitioner:

'patient' means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution:

'residential accommodation' means accommodation which is provided in:

- (a) a care home:
- (b) an independent hospital:
- (c) an Abbeyfield home: or
- (d) an establishment managed or provided by a body incorporated by royal charter or constituted by act of parliament other than a local social services authority:

'training course' means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish enterprise, Highlands and Islands Enterprise, a Government Department or the Secretary of State

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

Income and capital is aggregated-

**16.1.** (1) the income and capital of:

- (a) an applicant: and
- (b) any partner of that applicant, is to be calculated in accordance with the provisions of this part.

**16.2** (2) the income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this part any reference to the applicant applies equally to any partner of the applicant.

**16.3** (3) where an applicant or the partner of an applicant is married polygamously to two or more members of his household:

- (a) the applicant must be treated as possessing capital and income belonging to each such member: and
- (b) the income and capital of that member must be calculated in accordance with the following provisions of this part in like manner as for the applicant.

## **17. Circumstances in which capital and income of non dependant is to be treated as applicants**

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

## **18. Meaning of 'income'**

This lists what is income, and which Social Security benefits are not classed as income.

- 18.1** (1) for the purposes of classes a to c for pension age applicants, classes a to d for working age applicants (other than paragraph 1 (j)(zi)), and any war pensioner of any age 'income' means income of any of the following descriptions:
- (a) earnings:
  - (b) Working Tax Credit:
  - (c) Retirement Pension income within the meaning of the State Pension Credit Act 2002:
  - (d) income from annuity contracts (other than Retirement Pension income):
  - (e) a war disablement pension or war widow's or widower's pension:
    - (f) a foreign war disablement pension or war widow's or widower's pension:
  - (g) a guaranteed income payment:

- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (compensation scheme) order 2011**(b)**, in any case where article 31(2)(c) applies:
- (i) income from capital other than capital disregarded under part 1 of schedule 6 (capital disregards):
- (j) Social Security benefits, other than Retirement Pension income or any of the following benefits:
  - (zi) Universal Credit (However this does not apply for classes a to d for working age applicants, for whom their Universal Credit income is treated as income, but their applicable amount is made up of the elements used within their maximum Universal Credit award.)
    - (i) Disability Living Allowance:
    - (ii) Personal Independence Payment:
      - (iia) Adult Disability Payment:
    - (iii) an Armed Forces Independence Payment :
    - (iv) Attendance Allowance payable under section 64 of the Social Security Contributions and Benefits Act **(c)**:
    - (v) an increase of disablement pension under section 104 or 105 of that Act:
  - (vi) Child Benefit:
  - (vii) any Guardian's Allowance payable under section 77 of the Social Security Contributions and Benefits Act **(d)**:
  - (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with part 4 of that act:
  - (ix) any:
    - (aa) social fund payment made under part 8 of that act, or
    - (bb) occasional assistance:
  - (x) christmas bonus payable under part 10 of that act:
  - (xi) Housing Benefit:

(xii) Council Tax benefit:

(a) 2002 c. 16.

(b) s.i. 2011/517.

(c) 1992 c. 4: section 64 was amended by section 66 of the welfare reform and Pensions Act 1999 (c. 30): section 13 of, and paragraph 41 of schedule 1 to, the Pensions Act 2007 (c. 22): and sections 97 and 147 of, and paragraph 5 of schedule 9 and paragraph 1 of schedule 14 to, the Welfare Reform Act 2012 (c. 5) but those amendments are not yet in force.

(d) section 77 was amended by paragraph 1 of schedule 6 to the Tax Credits Act 2002 (c. 21): paragraph 34 of schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 4 of schedule 1 to the Child Benefit Act 2005 (c. 6).

(xiii) bereavement support payment under Section 30 of the Pensions Act 2014.:

(xiv) statutory sick pay:

(xv) statutory maternity pay:

(xvi) statutory paternity pay payable under part 12za of the Social Security Contributions and Benefits Act (a):

(xvii) statutory shared parental pay under Part 12ZC of that act:

(xviii) statutory parental bereavement pay under Part 12ZD if that act

(xix) (Now Omitted, replaced by xvii/xviii above by 2014 No.3255)

(xx) statutory adoption pay payable under part 12zb of that act:

(xxi) now omitted as of April 2021

(xxii) carer's allowance supplement payable under section 81 of the Social Security (Scotland) Act 2018:

(xxiii) early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018

(xxiv) funeral expense assistance given in accordance with Section 34 of that Act.

(xxv) any Scottish child payment assistance given in accordance with section 79 of that Act;

(xxvi) any assistance given in accordance with the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019;

(xxvii) short-term assistance given in accordance with regulations under section 36 of the Social Security (Scotland) Act 2018;

(xxviii) winter heating assistance given in accordance with regulations under section 30 of that Act;

(xxvii) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;

(k) all foreign Social Security benefits which are similar to the Social Security benefits mentioned above:

(l) a payment made:

(i) under article 30 of the Naval, Military and Air Forces etc (disablement and death) Service Pensions Order 2006**(b)**, in any case where article 30(1)(b) applies: or

(ii) under article 12(8) of that order, in any case where sub-paragraph (b) of that article applies:

(m) a pension paid to victims of national socialist persecution:

(n) payments under a scheme made under the pneumoconiosis etc (workers' compensation) Act 1979**(c)**:

(o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made:

(i) under a court order:

(ii) under an agreement for maintenance: or

(iii) voluntarily:

(p) payments due from any person in respect of board and lodging accommodation provided by the applicant:

(q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark:

(r) any payment in respect of any—

(i) book registered under the public lending right scheme 1982**(d)**: or

(ii) work made under any international public lending right scheme that is analogous to the public lending right scheme 1982:

(s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability:

- (t) any sum payable by way of pension out of money provided under:
  - (i) the Civil List Act 1837(e),
  - (ii) the Civil List Act 1937(f),

(a) part 12za was inserted by section 2 and part 12zb (see below) was inserted by section 4 of the Employment Act 2002 (c.22).

(b) s.i. 2006/606.

(c) 1979 c. 41.

(d) the public lending right scheme is appended to s.i. 1982/719: it was substituted by appendix 2 to s.i. 1990/2360. amendments have since been made to it but they are not relevant to these Regulations.

(e) 1837 c. 2.

(f) 1937 c. 32.

(iii) the Civil List Act 1952(a),

(iv) the Civil List Act 1972(b), or

(v) the Civil List Act 1975(c):

(u) any income in lieu of that specified in paragraphs (a) to (r):

(v) any payment of rent made to an applicant who:

(i) owns the freehold or leasehold interest in any property or is a tenant of any property:

(ii) occupies part of the property: and

(iii) has an agreement with another person allowing that person to occupy that property on payment of rent:

(w) any payment made at regular intervals under an equity release scheme:

(x)ppf periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002(d).

**18.2** (2) where the payment of any Social Security benefit referred to in sub-paragraph (1) , or retirement pension income to which section 16(1)(za) to (e) of the State Pension Credit Act 2002 applies (e), is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.

**18.3** (3) where an award of any Working Tax Credit or Child Tax Credit is subject to a deduction by way of recovery of an overpayment of Working Tax Credit or Child Tax Credit which arose in a previous Tax year the amount to be taken into account under sub-paragraph (1) shall be the amount of Working Tax Credit or Child Tax Credit awarded less the amount of that deduction.



**18.4** (4) the adjustments specified in this paragraph are those made in accordance with:

(a) the Social Security (overlapping benefits) Regulations 1979(f):

(b) the Social Security (hospital in-patients) Regulations 1975(g):

(c) section 30dd or section 30e of the Social Security Contributions and Benefits Act (h) (reductions in Incapacity Benefit in respect of pensions and councillor's allowances):

(d) section 3 of the Welfare Reform Act 2007(i) (deductions from contributory Employment and Support Allowance in respect of pensions and councillor's allowances) and Regulations made under it.

(e) section 14 of the Pensions Act 2014 (pension sharing: reduction in sharer's section 4 pension) (j)

(f) section 45B or 55B of the Social Security Contributions and Benefits Act 1992 (reduction in additional pension in Category A retirement pension and shared additional pension: pension sharing) (k)

**18.5** (5) in sub-paragraph (1):

(a) in paragraph (w) an 'equity release scheme' means a loan:

(i) made between a person ('the lender') and the applicant:

(ii) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals: and

(iii) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home: and

(b) in paragraph (j)(ix) 'occasional assistance' means any payment or provision made by a local authority, the Welsh ministers or the Scottish ministers for the purposes of:

(i) meeting, or helping to meet an immediate short-term need:

(aa) arising out of an exceptional event or exceptional circumstances, and

(bb) that needs to be met to avoid a risk to the well-being of an individual: or

(ii) enabling qualifying individuals to establish or maintain a settled home, and

‘qualifying individuals’ means individuals who have been, or without the assistance might otherwise be:

(aa) in prison, hospital, an establishment providing residential care or other institution, or

(bb) homeless or otherwise living an unsettled way of life.

(a) 1952 c. 37.

(b) 1972 c. 7.

(c) 1975 c. 82.

(d) 2002 c. 16: the definition of ppf periodic payments was inserted by article 2 of s.i. 2006/343.

(e) 2002 c. 16

(f) s.i. 1997/597.

(g) s.i. 1975/555.

(h) 1992 c. 4: section 30dd was inserted by section 63 of the welfare reform and Pensions Act 1999 (c. 30), the heading, and subsections (1) and (4) were amended by article 2 of s.i. 2006/343 and subsection (6) was amended by article 4 of s.i. 2006/745. section 30e was inserted by section 3 of the Social Security (incapacity for work) Act 1994 (c. 18), both section 30dd and section 30e have been repealed by paragraph 9 of schedule 3 to the Welfare Reform Act 2007 (c. 5) but that provision is not yet in force.

(i) 2007 c. 5: section 3 has been amended by paragraph 1 of schedule 14 and paragraph 26 of schedule 3 to the Welfare Reform Act 2012 (c. 5) but those provisions are not yet in force.

(j) 2014 c. 19

(k) 1992 c. 4

**18.6** (6) in sub-paragraph (5)(b) ‘local authority’ means a local authority in England within the meaning of the Local Government Act 1972(a).

## **19. Calculation of income other than earnings**

- 19.1** (1) for the purposes of calculating average weekly income other than earnings, the income of an applicant which does not consist of earnings to be taken into account shall, subject to paragraphs (2) to (8), be his gross income and any capital treated as income (under the schemes rules for capital treated as income).
- 19.2** (2) there shall be disregarded from the calculation of an applicant's gross income under paragraph (1), any sum, where applicable, specified in the schedule applicable to sums to be disregarded in the calculation of income other than earnings.
- 19.3** (3) where the payment of any benefit under the benefit acts is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.
- 19.4** (4) where the applicant or, where he is a member of a couple, his partner is receiving a Contributory Employment and Support Allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, the amount of that benefit to be taken into account is the amount as if it had not been reduced.
- 19.5** (5) where an award of any Working Tax Credit or Child Tax Credit under the Tax Credits Act is subject to a deduction by way of recovery of an overpayment of Working Tax Credit or Child Tax Credit which arose in a previous tax year the amount to be taken into account under paragraph (1) shall be the amount of Working Tax Credit or Child Tax Credit awarded less the amount of that deduction.
- 19.6** (6) 'Tax year' means a period beginning with 6 April in one year and ending with 5 April in the next.
- 19.7** (7) paragraphs (8) and (9) apply where—
- (a) a relevant payment has been made to a person in an academic year:  
and
  - (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- 19.8** (8) where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (8) applies, shall be calculated by applying the formula:

$a - (bxc) / d$

where:

a = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under regulation 51(5):

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

c = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under regulation 51(2) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to Council Tax benefit immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to Housing Benefit:

d = the number of benefit weeks in the assessment period.

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

a = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under regulation 51(5).

**19.10** (10) in this regulation 'academic year' and 'student loan' shall have the same meanings as for the purposes of part 5:  
'assessment period' means:

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

(b) in a case where the relevant payment is made by two or more

instalments in a quarter, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes:

- (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued: or
- (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person, whichever of those dates is earlier:

'quarter' in relation to an assessment period means a period in that year beginning on:

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

'relevant payment' means either a student loan or an amount intended or the maintenance of dependants referred to in regulation 46(7) or both.

**19.11** (11) for the avoidance of doubt there shall be included as income to be taken into account under paragraph (1):

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

## **20. Capital treated as income**

- 20.1** (1) any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with these Regulations exceeds the capital limit for the appropriate scheme shall be treated as income.
- 20.2** (2) any payment received under an annuity shall be treated as income.
- 20.3** (3) any earnings to the extent that they are not a payment of income shall be treated as income.
- 20.4** (4) any career development loan paid pursuant to section 2 of the 1973 Act shall be treated as income.
- 20.5** (5) where an agreement or court order provides that payments shall be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this part), shall be treated as income.

## **21. Earnings of employed earners**

- 21.1** (1) subject to sub-paragraph (2), 'earnings' in the case of employment as an employed earner, means any remuneration or profit derived from that employment and includes:
- (a) any bonus or commission:
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy:
  - (c) any payment in lieu of notice:
  - (d) any holiday pay:
  - (e) any payment by way of a retainer:
  - (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of:

- (i) travelling expenses incurred by the applicant between his home and place of employment:
- (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home:
- (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with part 5 of schedule 3 to the Social Security (contributions) Regulations 2001(a):
- (h) statutory sick pay payable by the employer under the Social Security Contributions and Benefits Act :
- (i) statutory maternity pay payable by the employer under that act:
- (j) statutory paternity pay payable under part 12za of that act:
- (ja) statutory shared parental pay under part 12ZC of that act:
- (jb) statutory parental bereavement pay under Part 12ZD of that act
- (k) statutory adoption pay payable under part 12zb of that act:
- (l) any sums payable under a contract of service:
  - (i) for incapacity for work due to sickness or injury: or
  - (ii) by reason of pregnancy or confinement.

**21.2** (2) earnings does not include:

- (a) subject to sub-paragraph (3), any payment in kind:
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment:
- (c) any occupational pension:
- (d) any lump sum payment made under the iron and steel re-adaptation benefits scheme:
- (e) any payment of compensation made pursuant to an award by an

employment tribunal established under the Employment Tribunals Act 1996**(b)** in respect of unfair dismissal or unlawful discrimination:

(f) any payment in respect of expenses arising out of the applicant participating as a service user.

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

(a) s.i. 2001/1004.

(b) 1996 c. 17.

## **22. Income paid to third parties**

**22.1** (1) any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of an applicant is to be treated as possessed by the applicant.

**22.2** (2) sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the board of the pension protection fund where:

(a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the solicitors (Scotland) Act 1980**(c)**:

(b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors: and

(c) the person referred to in paragraph (a) and his partner do not possess, or are not treated as possessing, any other income apart from that payment.

**22.3** (3) sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the applicant participating as a service user.

**(c) 1980 c. 46: section 41 was amended by paragraph 19 of schedule 1 to the Law Reform (miscellaneous provisions) (Scotland) Act 1985 (c. 73) and paragraph 13 of schedule 1 and schedule 2 to the solicitors (Scotland) Act 1988 (c. 42).**



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

**23.1** (1) subject to the rules of this scheme in relation to disregard of changes in tax, etc, the income of an applicant is to be calculated on a weekly basis—

(a) by estimating the amount which is likely to be his average weekly income in accordance with this part:

(b) by adding to that amount the weekly income calculated under the calculation of tariff income from capital in this scheme: and

(c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which treatment of child care charges rules in this scheme applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that subparagraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

**23.2** (2) the conditions of this paragraph are that—

(a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case: and

(b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either Working Tax Credit or Child Tax Credit.

**23.3** (3) the maximum deduction to which sub-paragraph (1)(c) refers is to be—

(a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175 per week:

(b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

## **24. Treatment of child care charges**

**24.1** (1) this paragraph applies where an applicant is incurring relevant child care charges and:

(a) is a lone parent and is engaged in remunerative work:

(b) is a member of a couple both of whom are engaged in remunerative work: or

(c) is a member of a couple where one member is engaged in remunerative work and the other:

(i) is incapacitated:

(ii) is an in-patient in hospital: or

(iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

**24.2** (2) for the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he:

(a) is paid statutory sick pay:

(b) is paid short-term Incapacity Benefit at the lower rate under sections 30a to 30e of the Social Security Contributions and Benefits Act :

(c) is paid an Employment and Support Allowance: 39

(d) is paid Income Support on the grounds of incapacity for work under regulation 4za of, and paragraph 7 or 14 of schedule 1b to, the Income Support (general) Regulations 1987: or

(e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8b of the Social Security (credits) Regulations 1975.

**24.3** (3) this sub-paragraph applies to a person who was engaged in remunerative work immediately before

(a) the first day of the period in respect of which he was first paid statutory sick pay, short term Incapacity Benefit, an Employment and Support Allowance or Income Support on the grounds of incapacity for work: or

(b) the first day of the period in respect of which earnings are credited, as the case may be.

**24.4** (4) in a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid Income Support or on the first day of the period in respect of which earnings are credited, as the case may be.

**24.5** (5) relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (9).

**24.6** (6) the charges are paid by the applicant for care which is provided:

- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday: or
- (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.

**24.7** (7) the charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid:

- (a) in respect of the child's compulsory education:
- (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with the circumstances in which a person is treated as responsible or not responsible for another in this scheme or
- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

**24.8** (8) the care to which sub-paragraph (7) refers may be provided—

- (a) out of school hours, by a school on school premises or by a local authority:
  - (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday: or
  - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday: or
- (b) by a child care provider approved in accordance with the Tax credit (new category of child care provider) Regulations 1999(a): or
- (c) by persons registered under part 2 of the children and families (Wales) measure 2010(b): or
- (d) by a person who is excepted from registration under part 2 of the children and families (Wales) measure 2010 because the child care that person provides is in a school or

(a) s.i. 1999/3110 was partially revoked in relation to England by s.i. 2007/2481 which also established a transitional scheme to recognise existing registrations. alternative systems of registration are established under the Child Care Act 2006 (c. 21).

(b) 2010 nawm 10.

(e) by:

(i) persons registered under section 59(1) of the public services reform (Scotland) Act 2010**(b)**: or

(ii) local authorities registered under section 83(1) of that act, where the care provided is child minding or day care of children within the meaning of that act: or

(f) by a person prescribed in Regulations made pursuant to section 12(4) of the Tax Credits Act 2002**(c)**: or

(g) by a person who is registered under chapter 2 or 3 of part 3 of the Childcare Act 2006**(d)**:

or

(h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006**(e)** in circumstances where the requirement to register under chapter 2 of part 3 of that act does not apply by virtue of section 34(2) of that act: or

(i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under chapter 3 of part 3 of that act does not apply by virtue of section 53(2) of that act: or

(j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006**(f)** in circumstances where the care is not included in the meaning of 'childcare' for the purposes of part 1 and part 3 of that act by virtue of that subsection: or

(k) by a foster parent or kinship carer under the Fostering Services (England) Regulations 2011**(g)** or the looked after children (Scotland) Regulations 2009**(h)** in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after: or

(ka) by a foster parent under the Fostering Panels (Establishment and Functions) (Wales) Regulations 2018(2) or a person with whom a child is placed under regulation 26 of the Care Planning, Placement and Case Review (Wales) Regulations 2015 (temporary approval of a relative, friend or other person connected with the child) or regulation 28 of those Regulations (temporary approval of a particular prospective adopter) in relation to a child other than one whom the foster parent is fostering or the person is looking after; or

(l) by a provider of personal care within the meaning of paragraph 1 of schedule 1 to the Health and Social Care Act 2008 (regulated activities) Regulations 2010(i) and being a regulated activity prescribed by those Regulations or by a person who is employed, or engaged under a contract for services, to provide care and support by the provider of a domiciliary support service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016: or

(m) by a person who is not a relative of the child wholly or mainly in the child's home.

**24.9** (9) relevant child care charges are to be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.

**24.10** (10) for the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—

(a) he is aged not less than 80:

(b) he is aged less than 80, and—

(i) an additional condition specified in paragraph 25 is treated as applying in his case: and

(a) s.i. 2010/2574 (w. 214).

(b) 2010 asp 8.

(c) 2002 c. 21: section 12(4) has been repealed by paragraph 1 of schedule 14 to the Welfare Reform Act 2012 (c. 5) but that provision is not yet in force.

(d) 2006 c. 21.

(e) section 34(2) has been amended by paragraphs 30 and 32 and section 53(2) (see paragraph (i)) by paragraphs 30 and 34 of schedule 1 to the Education and skills Act 2008 (c. 25) but those provisions are not yet in force.

(f) section 18(5) has been amended by section 8 of, and paragraph 19 of schedule 1 to, the Children and Young Persons Act 2008 (c. 23).

(g) s.i. 2011/581.

(h) s.s.i. 2009/210.

(i) s.i. 2010/781: paragraph 1 has been amended by s.i. 2012/1513.

(ii) he satisfies that condition or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171e of the Social Security Contributions and Benefits Act (a):

(c) the other member of the couple would be a member of the support group or a member of the work-related activity group but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008 or the Employment and Support Allowance Regulations 2013

(d) he is, or is treated as, incapable of work and has been so incapable, or

has been so treated as incapable, of work in accordance with the provisions of, and Regulations made under, part 12a of the Social Security Contributions and Benefits Act (c) (incapacity for work) for a continuous period of not less than 196 days: and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period:

(e) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the employment and Support Allowance Regulations 2008 or the Employment and Support Allowance Regulations 2013 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period:

(f) there is payable in respect of him one or more of the following pensions or allowances:

(i) long-term Incapacity Benefit or short-term Incapacity Benefit at the higher rate under schedule 4 to the Social Security Contributions and Benefits Act (d):

(ii) Attendance Allowance under section 64 of the Social Security Contributions and Benefits Act :

(iii) Severe Disablement Allowance under section 68 of the Social Security Contributions and Benefits Act :

(iv) Disability Living Allowance(e):

(v) Personal Independence Payment:

(vi) an Armed Forces Independence Payment :

(vii) increase of disablement pension under section 104 of the Social Security Contributions and Benefits Act :

(viii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vii) above:

(ix) main phase Employment and Support Allowance:

(x) Adult Disability Payment

(g) a pension or allowance or payment to which sub-paragraph (v), (vii) or (viii) of paragraph (f) above refers was payable on account of his

incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (hospital in-patients) Regulations 2005(f):

(h) an Attendance Allowance under section 64 of the Social Security Contributions and Benefits Act or disability living allowance would be payable to that person but for—

(i) a suspension of benefit in accordance with Regulations made under section 113(2) of the Social Security Contributions and Benefits Act : or

(ii) an abatement as a consequence of hospitalisation.

**(a) 1992 c. 4: section 171e was inserted by section 6 of the Social Security (incapacity for work) Act 1994 (c. 18) and subsequently amended by paragraph 76 of schedule 7 to the Social Security Act 1998 (c. 14).  
(b) s.i. 2008/1794.**

**(c) part 12a was inserted by section 5 of the Social Security (incapacity for work) Act 1994 Act and amended by section 70 of, and paragraphs 20 and 23 of schedule 8 to, the welfare reform and Pensions Act 1999 (c. 30). it has been repealed by paragraph 9(1) and (12) of schedule 3 to the Welfare Reform Act 2007 (c. 5) but those provisions are not yet in force.**

**(d) relevant amendments have been made by article 3 of, and the schedule to, s.i. 2012/780. part 12a has been repealed by schedule 8 to the Welfare Reform Act 2007 but that provision is not yet in force.**

**(e) section 71 of the Social Security Contributions and Benefits Act which makes provision for Disability Living Allowance was amended by section 67 of the welfare reform and Pensions Act 1999 and has been repealed by section 90 of the Welfare Reform Act 2012 but that provision is not yet in force.**

**(f) s.i. 2005/3660.**

(i) the daily living component of Personal Independence Payment would be payable to that person but for a suspension of benefit in accordance with Regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients):

(j) an Armed Forces Independence Payment would be payable to that person but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

(j) paragraph (e), (f), (g) or (h) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland: or

(k) he has an invalid carriage or other vehicle provided to him by the secretary of state or an integrated care board under paragraph 9 of schedule 1 to the National Health Service Act 2006(a) or under section 46 of the National Health Service (Scotland) Act 1978(b) or provided by the department of health, social services and public safety in Northern Ireland under article 30(1) of the Health and Personal Social Services (Northern Ireland) order 1972(c).

**24.11** (11) for the purposes of sub-paragraph (10), once sub-paragraph (10)(d) applies to the person, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph is to, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

**24.12** (12) for the purposes of sub-paragraph (10), once sub-paragraph (10)(e) applies to the person, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is to, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.

**24.13** (13) for the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person:

(a) to whom an Attendance Allowance or care component of disability

(i) a suspension of benefit in accordance with Regulations under section 113(2) of the Social Security Contributions and Benefits Act : or

(ii) an abatement as a consequence of hospitalisation:

(aa) in respect of whom child disability payment is payable

(b) to whom the daily living component of Personal Independence Payment is payable or has ceased to be payable by virtue of a suspension of benefit in accordance with Regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients):

(ba) in respect of whom Adult Disability Payment is payable, or has ceased to be payable solely by virtue of Regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the DAWAP Regulations:

(c) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or as severely sight impaired in a register kept under section 77(1) of the Care Act 2014 (registers of sight impaired adults) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a Council constituted under section 2 of the Local Government (Scotland) Act 1994(d): or



(d) who ceased to be registered as blind or severely sight impaired in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

**24.14** (14) for the purposes of sub-paragraph (1) a person on maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (15) ('the relevant period') provided that

(a) 2006 c. 41: paragraph 9 has been amended by section 17 (to replace references to the Secretary of State with integrated care boards) of the Health and Social Care Act 2012 (c. 7) but those provisions are not yet fully in force.  
(b) 1978 c. 29.

(c) s.i. 1972/1265 (n.i. 14).  
(d) 1994 c. 65

(a) In the week before the period of maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave began he was in remunerative work:

(b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5): and

(c) he is entitled to either statutory maternity pay under section 164 of the Social Security Contributions and Benefits Act (a), statutory paternity pay by virtue of section 171za or 171zb of that act, statutory adoption pay by virtue of section 171zl of that act, maternity allowance under section 35 of that act, statutory shared parental pay by virtue of section 171ZU or 171ZV of that act, statutory parental bereavement pay by virtue of section 171ZZ6 of that act or qualifying support.

**24.15** (15) for the purposes of sub-paragraph (14) the relevant period begins on the day on which the person's maternity, paternity leave, shared parental leave, parental bereavement leave or adoption leave commences and ends on:

(a) the date that leave ends:

(b) if no child care element of Working Tax Credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay ends, the date that entitlement ends: or

(c) if a child care element of Working Tax Credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory

maternity pay, ordinary or additional statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the Working Tax Credit ends, whichever shall occur first.

**24.16** (16) in sub-paragraphs (14) and (15)

- (a) 'qualifying support' means Income Support to which that person is entitled by virtue of paragraph 14b of schedule 1b to the Income Support (general) Regulations 1987**(b)**; and
- (b) 'child care element' of Working Tax Credit means the element of working Tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

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

**25. Additional condition referred to in paragraph 24 (10)(b)(i)**

This refers to supplementary conditionality for the child care cost disregard

**25.1** (1) subject to sub-paragraph (2), the additional condition referred to in paragraph 25(10)(b)(i) is that either:

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

- (i) is in receipt of one or more of the following benefits: Attendance Allowance, Disability Living Allowance, Personal Independence Payment, an Armed Forces Independence Payment, the disability element or the severe disability element of Working Tax Credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (entitlement and maximum rate) Regulations 2002**(c)**, mobility supplement, long-term Incapacity Benefit under part 2 of the Social Security Contributions and Benefits Act or Severe Disablement Allowance under part 3 of that act but, in the case of long-term Incapacity Benefit or Severe Disablement Allowance, only where it is paid in respect of him: or
- (ii) was in receipt of long-term Incapacity Benefit under part 2 of the Social Security Contributions and Benefits Act when entitlement to that benefit ceased on account of the of a Retirement Pension under that act or a state pension under Part 1 of the Pensions Act 2014 and the applicant has since remained continuously entitled to Council Tax benefit (for the period prior to 1 April 2013) or a reduction under an authority's scheme (for the period on or after 1 April 2013) and, if the long-term

incapacity benefit was payable to his partner, the partner is still a member of the family: or

- (iii) was in receipt of Attendance Allowance or Disability Living Allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the Social Security Contributions and Benefits Act or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 25(10)(g) (treatment of child charges): or

**(a) 1992 c. 4: section 164 was amended by paragraph 12 of the Social Security contributions (transfer of functions, etc) Act 1999 (c. 2) and section 20 of, and paragraph 6 of schedule 7 and paragraph 1 of schedule 8 to, the Employment Act 2002 (c. 22).**

**(b) s.i. 1987/1967: schedule 1b was inserted by paragraph 7 of schedule 10 to s.i. 1996/206.**

**(c) s.i. 2002/2005.**

- (iv) was in receipt of Personal Independence Payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 25(10)(g): or

- (v) was in receipt of an Armed Forces Independence Payment but its payment has been suspended in accordance with any terms of the Armed and Reserve Forces Compensation Scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution: or

- (vi) is provided by the Secretary of State or an integrated care board with an invalid carriage or other vehicle under paragraph 9 of schedule 1 to the National Health Service Act 2006 or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish ministers) or receives payments by way of grant from the Secretary of State under paragraph 10(3) of schedule 1 to the Act of 2006(a) or, in Scotland, by Scottish ministers under section 46 of the Act of 1978: or

- (vii) is blind and in consequence registered in a register compiled by a local authority in Wales under section 29 of the national assistance Act 1948 (welfare services), or is registered as severely sight impaired in a register kept by a local authority in England under Section 77(1) of the Care Act 2014 (registers of sight impaired adults) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a Council constituted under section 2 of the local government (Scotland) Act 1994: or

(b) the applicant, or as the case may be, the other member of the couple:

(i) is, or is treated as, incapable of work in accordance with the provisions of, and Regulations made under, part 12a of the Social Security Contributions and Benefits Act (b) (incapacity for work):  
and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than:

(aa) in the case of an applicant who is terminally ill within the meaning of section 30b(4)(c) of the Social Security Contributions and Benefits Act , 196 days:

(bb) in any other case, 364 days.

**25.2** (2) for the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind or severely sight impaired on regaining his eyesight is nevertheless to be treated as such 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.

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

**25.4** (4) for the purposes of this paragraph, a reference to a person who is or was in receipt of long-term Incapacity Benefit includes a person who is or was in receipt of short-term Incapacity Benefit at a rate equal to the long-term rate by virtue of section 30b(4)(a) of the Social Security Contributions and Benefits Act (short-term Incapacity Benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term Incapacity Benefit at such a rate but for the fact that the rate of short-term Incapacity Benefit already payable to him is or was equal to or greater than the long-term rate.

**25.5** (5) in the case of a person who is a welfare to work beneficiary (a person to whom regulation 13a(1) of the Social Security (incapacity for work) (general) Regulations 1995(d) applies, and who again becomes incapable of work for the purposes of part 12a of the Social Security Contributions and Benefits Act ) the reference to a period of 56 days in sub-paragraph (3) must be treated as a reference to a period of 104 weeks.

(a) sub-paragraph (3) has been amended by section 17 of the Health and Social Care Act 2012 (c. 7) but those provisions are not yet fully in force.

(b) part 12a was inserted by section 5 of the Social Security (incapacity for work) Act 1994 (c. 18) and amended by the welfare reform and Pensions Act 1999 (c. 30). it was repealed by sections 28 and 67 of, and paragraph 9 of schedule 3 and schedule 8 to, the Welfare Reform Act 2007 (c. 5) but those provisions are not yet in force.

(c) section 30b was inserted by section 2 of the Social Security (incapacity for work) Act 1994 and amended by section

91 of, and paragraphs 3 and 4 of schedule 9 to, the Welfare Reform Act 2012, but those amendments are not yet in force. it has also been repealed by paragraph 9 of schedule 3 to the Welfare Reform Act 2007 but those provisions are not yet in force.

(d) s.i. 1995/311: regulation 13a was inserted by s.i. 1998/2231 and amended by s.i. 1999/3109, s.i. 2006/707 and s.i. 2006/2378.

## **26. Calculation of average weekly income from Tax credits**

**26.1** (1) this paragraph applies where an applicant receives a Tax Credit.

**26.2** (2) where this paragraph applies, the period over which a Tax Credit is to be taken into account is the period set out in sub-paragraph (3).

**26.3** (3) where the instalment in respect of which payment of a Tax Credit is made is:

(a) a daily instalment, the period is one day, being the day in respect of which the instalment is paid:

(b) a weekly instalment, the period is seven days, ending on the day on which the instalment is due to be paid:

(c) a two weekly instalment, the period is 14 days, commencing six days before the day on which the instalment is due to be paid:

(d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

**26.4** (4) for the purposes of this paragraph 'Tax Credit' means Child Tax Credit or Working Tax Credit.

## **27. Disregard of changes in Tax, contributions etc**

**27.1** In calculating the applicant's income an authority may disregard any legislative change:

(a) in the basic or other rates of Income Tax:

(b) in the amount of any personal tax relief:

(c) in the rates of national insurance contributions payable under the Social Security Contributions and Benefits Act or in the lower earnings limit or upper earnings limit for Class 1 contributions under that act, the lower or upper limits applicable to class 4 contributions under that act or the amount specified in section 11(4)(a) of that act (b) (lower profits threshold in relation to class 2 contributions):

(d) in the amount of Tax payable as a result of an increase in the weekly rate of category a, b, c or d Retirement Pension or any addition thereto or

any graduated pension payable under the Social Security Contributions and Benefits Act or a state pension under Part 1 of the Pensions Act 2014.:

(e) in the maximum rate of Child Tax Credit or Working Tax Credit, for a period not exceeding 30 reduction weeks beginning with the reduction week immediately following the date from which the change is effective.

(b) section 11(4) was amended by paragraph 12 of schedule 3 to the Social Security Contributions (transfer of functions, etc) Act 1999 (c. 2) and article 2 of s.i. 2012/807.

## **28. Calculation of net profit of self employed earners**

**28.1** (1) for the purposes of the calculation of income on a weekly basis rules in this scheme the earnings of an applicant to be taken into account are:

(a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment:

(b) in the case of a self-employed earner whose employment is carried on

(i) an amount in respect of Income Tax and of national insurance contributions payable under the Social Security Contributions and Benefits Act calculated in accordance with the deduction of Tax and contributions of self-employed earners: and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium:

**28.2** (2) for the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (8) applies, be calculated by taking into account the earnings of the employment over the assessment period less:

(a) subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment:

(b) an amount in respect of:

(i) Income Tax: and

(ii) National insurance contributions payable under the Social Security Contributions and Benefits Act , calculated in accordance with paragraph 30: and

(c) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.

**28.3** (3) for the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the

assessment period less, subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

- 28.4** (4) subject to sub-paragraph (5), no deduction is to be made under sub-paragraph (2)(a) or (3), in respect of:
- (a) any capital expenditure:
  - (b) the depreciation of any capital asset:
  - (c) any sum employed or intended to be employed in the setting up or expansion of the employment:
  - (d) any loss incurred before the beginning of the assessment period:
  - (e) the repayment of capital on any loan taken out for the purposes of the employment: and
  - (f) any expenses incurred in providing business entertainment.
- 28.5** (5) a deduction must be made under sub-paragraph (2)(a) or (3) in respect of the repayment of capital on any loan used for:
- (a) the replacement in the course of business of equipment or machinery:  
or
  - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- 28.6** (6) an authority must refuse to make a deduction in respect of any expenses under subparagraph (2)(a) or (3) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- 28.7** (7) for the avoidance of doubt:
- (a) a deduction must not be made under sub-paragraph (2)(a) or (3) in respect of any sum unless it has been expended for the purposes of the business:
  - (b) a deduction must be made there under in respect of:
    - (i) the excess of any value added Tax paid over value added Tax received in the assessment period:
    - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair:

(iii) any payment of interest on a loan taken out for the purposes of the employment.

**28.8** (8) where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—

(a) an amount in respect of:

(i) Income Tax: and

(ii) National insurance contributions payable under the Social Security Contributions and Benefits Act , calculated in accordance with paragraph 30: and

(b) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.

**28.9** (9) for the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.

**28.10** (10) the amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period: and for the purposes of this paragraph the daily amount of the qualifying premium is to be determined:

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

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

**28.11** (11) in this paragraph, 'qualifying premium' means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

## **29 Calculation of weekly income**

**29.1** (1) Except in a case within sub-paragraph (2), (3A), (4A) or (5), for the purposes of calculating the weekly income of an applicant, where the period in respect of which payment is made:

(a) does not exceed a week, the whole of that payment must be included in the applicant's weekly income:



(b) exceeds a week, the amount to be included in the applicant's weekly income is to be determined:

(i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52:

(ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52:

(iii) in a case where that period is a year, by dividing the amount of the payment by 52:

(iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.

**29.2** (2) sub-paragraph (3) applies where:

(a) the applicant's regular pattern of work is such that he does not work the same hours every week: or

(b) the amount of the applicant's income fluctuates and has changed more than once.

**29.3** (3) the weekly amount of that applicant's income is to be determined:

(a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences): or

(b) in any other case, on the basis of:

(i) the last two payments if those payments are one month or more apart:

(ii) the last four payments if the last two payments are less than one month apart: or

(iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.

**29.3A** (3A) Income calculated pursuant to sub-paragraphs (2) and (3) must be taken into account:

- (a) in the case of an application, on the date on which the application was made or treated as made, and the first day of each reduction week thereafter;
- (b) in the case of an application or a reduction under a scheme where the applicant commences employment, the first day of the reduction week following the date the applicant commences that employment, and the first day of each reduction week thereafter; or
- (c) in the case of an application or a reduction under a scheme where the applicant's average weekly earnings from employment change, the first day of the reduction week following the date the applicant's earnings from employment change so as to require recalculation under this paragraph, and the first day of each reduction week thereafter, regardless of whether those earnings were actually received in that reduction week.”;

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

**29.4A** (4A) An applicant's earnings from employment as an employed earner not calculated pursuant to sub-paragraphs (2) and (3) must be taken into account:

- (a) in the case of an application, on the date on which the application was made or treated as made, and the first day of each reduction week thereafter;
- (b) in the case of an application or a reduction under a scheme where the applicant commences employment, the first day of the reduction week following the date the applicant commences that employment, and the first day of each reduction week thereafter; or
- (c) in the case of an application or a reduction under a scheme where the applicant's average weekly earnings from employment change, the first day of the reduction week following the date of the change, and the beginning of each reduction week thereafter, regardless of whether those earnings were actually received in that reduction week.”;

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

(a) 1972 c. 70. the definition of local authority was amended by section 102 of, and paragraph 8 of schedule 16 and schedule 17 to, the Local Government Act 1985. Other amendments have been made to that definition but they are not relevant to these Regulations.

**29.6** (6) this sub-paragraph applies to:

(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark:

(b) any payment in respect of any:

(i) book registered under the public lending right scheme 1982: or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right scheme 1982: and

(c) any payment which is made on an occasional basis.

**29.7** (7) the period under which any benefit under the benefit acts is to be taken into account is to be the period in respect of which that benefit is payable.

**29.8** (8) where payments are made in a currency other than sterling, the value of the payment is to be determined by taking the sterling equivalent on the date the payment is made.

**29.9** (9) the sums specified in schedule 4 (sums disregarded from earnings) are to be disregarded in calculating :

(a) an applicant's earnings: and

(b) any amount to which sub-paragraph (6) applies where an applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).

**29.10** (10) for the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in sub-paragraph (6) are to be treated as though they were earnings.

**29.11** (11) income specified in schedule 5 (amount disregarded in calculation of amounts other than earnings) is to be disregarded in the calculation of an applicant's income.

**29.12** (12) schedule (capital disregards) has effect so that:

- (a) the capital specified in part 1 is disregarded for the purpose of determining an applicant's income: and
- (b) the capital specified in part 2 is disregarded for the purpose of determining an applicant's income under paragraph 37 (calculation of tariff income from capital).

**29.13** (13) in the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

### **30. Calculation of net earnings for employed earners**

Makes provision for the deduction of Tax, national insurance contributions and half of the superannuation contribution

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

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

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

(i) Income Tax:

(ii) Primary Class 1 contributions under the Social Security Contributions and Benefits Act :

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

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

(d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay, any amount deducted from those earnings by

way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to Primary Class 1 contributions under the Social Security Contributions and Benefits Act .

- 30.3** (3) in this regulation 'qualifying contribution' means any sum which is payable periodically as a contribution towards a personal pension scheme.
- 30.4** (4) the amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period: and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined:
- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365:
  - (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- 30.5** (5) where the earnings of an applicant are determined under paragraph 17(2)(b) (calculation of weekly income) his net earnings are to be calculated by taking into account those earnings over the assessment period, less—
- (a) an amount in respect of Income Tax equivalent to an amount calculated by applying to those earnings the basic rate of Tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35, 36, or 37 of the Income Tax Act 2007(a) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of Tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis:
  - (b) an amount equivalent to the amount of the primary class 1 contributions that would be payable by him under the Social Security Contributions and Benefits Act in respect of those earnings if such contributions were payable: and
  - (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

a) 2007 c. 3: the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c. 14) ('2012 Act'): subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c. 10). in section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2a) inserted by section 4 of the 2012 Act: subsection (2) has also been amended by article 3 of s.i. 2011/2926 and section 4 of the Finance Act 2009. in section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2a) inserted by section 4 of the 2012 Act: subsection (2) has also been amended by article 3 of s.i. 2011/2926 and section 4 of the Finance Act 2009.

## **31. Calculation of earnings of self employed earners**

Provides provision for the assessment of weekly self employed earnings over one year or the 'computation period'

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

## 32. Earnings of self employed earners

This defines self employed earnings, and makes exceptions from the inclusion of other forms of payment:

**32.1.** (1) subject to sub-paragraph (2), 'earnings', in the case of employment as a self-employed earner, means the gross income of the employment.

**32.2** (2) 'earnings' in the case of employment as a self-employed earner does not include:

(a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments:

(b) any payment made by a local authority to an applicant—

(i) with whom a person is accommodated by virtue of arrangements made under sections 22c or 23(2)(a) of the Children Act 1989(a) or, as the case may be, section 26 or 26A of the Children (Scotland) Act 1995(b): or

(ii) with whom a local authority fosters a child under the looked after children (Scotland) Regulations 2009(c) or who is a kinship carer under those regulations:

(c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989(d):

(d) any payment made to the applicant or his partner for a person ('the person concerned') who is not normally a member of the applicant's household but is temporarily in his care, by:

(i) a local authority but excluding payments of Housing Benefit made in respect of the person concerned:

(ii) a voluntary organisation:

(iii) where the payment is for the provision of accommodation in respect of the meeting of that person's needs under Section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support)

(iv) NHS England or an integrated care board established under Chapter A3 of Part 2 of the National Health Service Act 2006(f):

(v) a local health board established by an order made under section 11 of the National Health Service (Wales) Act 2006(g):

or

(vi) the persons concerned where the payment is for the provision of accommodation to meet that person's needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (respectively, duty and power to meet care and support needs of an adult) (h)

(da) any payment or part of a payment made by a local authority in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care) to a person ("A") which A passes on to the applicant where A—

(i) was formerly in the applicant's care;

(ii) is aged 16 or over; and

(iii) continues to live with the applicant;

(db) any payments made to an applicant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance: further provisions) (i)

(e) any sports award.

(a) 1989 c. 41: section 23 was substituted by sections 22a to 22f by section 8(1) of the Children and Young Persons Act 2008 (c. 23). section 22c is in force in England but is not yet in force in Wales.

(b) 1995 c. 36: section 26 was amended by paragraph 1 of schedule 3 to the adoption and children (Scotland) Act 2007 (asp 4). (c) s.i. 2009/20: amendments to these Regulations have been made by s.i. 2009/290.

(d) section 59(1)(a) was amended by section 49 of the children Act 2004 (c. 31) and paragraph 2 of schedule 1 to the Children and Young Persons Act 2008.

(e) 1948 c. 29: section 26(3a) was inserted by section 42(4) of the National Health Service and community care Act 1990 (c.19). (f) 2006 c. 41: the commissioning board is established under section 1h of the National Health Service Act 2006. section 1h was inserted by section 9 and section 14d inserted by section 25 of the Health and Social Care Act 2012 (c. 7).

(g) 2006 c. 42.

(h) 2014 anaw 4.

(i) 2014 asp.8

### **33. Calculation of net profit of self employed earners**

This prescribes the allowable and non allowable expenses etc.

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

(a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment:

(b) in the case of a self-employed earner whose employment is carried on in partnership, his share of the net profit derived from that employment, less:

- (i) an amount in respect of Income Tax and of Social Security contributions payable under the Social Security Contributions and Benefits Act calculated in accordance with paragraph 30 (deduction of Tax and contributions of self-employed earners): and
- (ii) one-half of the amount calculated in accordance with sub-paragraph (11)



in respect of any qualifying premium.

**33.2** (2) for the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (8) applies, be calculated by taking into account the earnings of the employment over the assessment period less:

(a) subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment:

(b) an amount in respect of:

(i) Income Tax: and

(ii) Social Security contributions payable under the Social Security Contributions and Benefits Act, calculated in accordance with paragraph 30: and

(c) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.

**33.3** (3) for the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

**33.4** (4) subject to sub-paragraph (5), no deduction is to be made under sub-paragraph (2)(a) or (3), in respect of:

(a) any capital expenditure:

(b) the depreciation of any capital asset:

(c) any sum employed or intended to be employed in the setting up or expansion of the employment:

(d) any loss incurred before the beginning of the assessment period:

(e) the repayment of capital on any loan taken out for the purposes of the employment: and

(f) any expenses incurred in providing business entertainment.

**33.5** (5) a deduction must be made under sub-paragraph (2)(a) or (3) in respect of the repayment of capital on any loan used for:

(a) the replacement in the course of business of equipment or machinery: or

(b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

**33.6** (6) an authority must refuse to make a deduction in respect of any expenses under subparagraph (2)(a) or (3) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

**33.7** (7) for the avoidance of doubt:

(a) a deduction must not be made under sub-paragraph (2)(a) or (3) in respect of any sum unless it has been expended for the purposes of the business:

(b) a deduction must be made there under in respect of:

(i) the excess of any value added Tax paid over value added Tax received in the assessment period:

(ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair:

(iii) any payment of interest on a loan taken out for the purposes of the employment.

**33.8** (8) where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less:

(a) an amount in respect of:

(i) Income Tax: and

(ii) Social Security contributions payable under the Social Security Contributions and Benefits Act , calculated in accordance with paragraph 30: and

(b) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.

**33.9** (9) for the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.

**33.10** (10) the amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the

number of days in the assessment period: and for the purposes of this paragraph the daily amount of the qualifying premium is to be determined:

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

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

**33.11** (11) in this paragraph, 'qualifying premium' means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

## **34. Calculation of deduction of Tax and contributions of self employed earners**

**5.1** (1) the amount to be deducted in respect of Income Tax under paragraph 29(1)(b)(i), (2)(b)(i) or (8)(a)(i) of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012 of the calculation of net profit of self-employed earners rules in this scheme is to be calculated:

on the basis of the amount of chargeable income: and

(b) as if that income were assessable to Income Tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35, 36 or 37 of the Income Tax Act 2007(a) (personal allowances) as is appropriate to his circumstances.

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

**5.3** (3) the amount to be deducted in respect of national insurance contributions under paragraph 29(1)(b)(i), (2)(b)(ii) or (8)(a)(ii) of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012 of the calculation of net profit of self-employed earners rules in this scheme is the total of:

- (a) the amount of class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Social Security Contributions and Benefits Act (**b**) at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4)(a) of that act (lower profits threshold) for the Tax year applicable to the assessment period: but if the assessment period is less than a year, the amount specified for that Tax year must be reduced pro rata: and
- (b) the amount of class 4 contributions (if any) which would be payable under section 15 of the Social Security Contributions and Benefits Act (class 4 contributions recoverable under the Income Tax acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the Tax year applicable to the assessment period: but if the assessment period is less than a year, those limits must be reduced pro rata.

**34.4** (4) in this paragraph 'chargeable income' means

- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (3) of paragraph 29 the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012: (b) in the case of employment as a child minder, one-third of the earnings of that employment.

(a) 2007 c. 3: the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c. 14) ('2012 Act'): subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c. 10). in section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2a) inserted by section 4 of the 2012 Act: subsection (2) has also been amended by article 3 of s.i. 2011/2926 and section 4 of the Finance Act 2009. in section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2a) inserted by section 4 of the 2012 Act: subsection (2) has also been amended by article 3 of s.i. 2011/2926 and section 4 of the Finance Act 2009. (b) the rates of contributions in section 11(1) were substituted by article 2 of s.i. 2012/807. subsection (3) was amended (so as to transfer functions to the treasury) by section 2 of, and paragraph 12 of schedule 3 to, the Social Security contributions (transfer of functions, etc) Act 1999 (c. 2).

## **35. Extended reductions (income related benefits)**

**35.1** Extended reductions help to provide work incentives for long term unemployed people of working age who find work by giving them four weeks extra support , without the requirement to reassess the claim, also called a 'run on'. Cheshire west and Chester will apply a 4 week run on for Council Tax Reduction under the following conditions, whilst resident in Cheshire West and Chester area and remain liable for Council Tax.

**35.2** Qualifying income related benefits are defined in section 2 (interpretation) of the matters for all applicants in this scheme. In addition to the benefits listed Universal Credit may also be a qualifying benefit but only when the applicant and any partner were not in remunerative work before the extended reduction period).

**35.3** An applicant who is entitled to a Council Tax Reduction (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction where:

The applicant or their partner was entitled to a qualifying benefit for a continuous period of at least 26 weeks immediately prior to:

The applicant or their partner commencing employment or self employment for at least 16 hours per week, or

The applicant or their partner increasing their hours of employment or self employment to 16 hours per week, and that employment, self employment or those increased hours in employment or self employment are expected to last at least 5 weeks

## **36. Extended reductions (contribution related benefits)**

**36.1** Extended reductions help to provide work incentives for long term unemployed people of working age who find work by giving them four weeks extra support , without the requirement to reassess the claim, also called a 'run on'. Cheshire west and Chester will apply a 4 week run on for Council Tax Reduction under the following conditions, whilst resident in Cheshire West and Chester area and remain liable for Council Tax.

**36.2** Qualifying contribution related benefits are defined in section 2 (interpretation) of the matters for all applicants in this scheme. In addition to the benefits listed Universal Credit may also be a qualifying benefit but only when the applicant and any partner were not in remunerative work before the extended reduction period).

**36.3** An applicant who is entitled to a Council Tax Reduction (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction where:

The applicant or their partner was entitled to a qualifying benefit for a continuous period of at least 26 weeks immediately prior to:

The applicant or their partner commencing employment or self employment for at least 16 hours per week, or

The applicant or their partner increasing their hours of employment or self employment to 16 hours per week, and that employment, self employment or those increased hours in employment or self employment are expected to last at least 5 weeks.

- 36.4** The applicant or the applicants partner was not entitled to and not in receipt of a qualifying income related benefit in the last benefit week in which the applicant or the applicants partner was entitled to a qualifying contributory benefit.

### **37. Duration of extended reduction period**

**37.1** (1) where an applicant is entitled to an extended reduction (qualifying income related or contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income related or contributory benefit.

**37.2** (2) for the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income related or contributory benefit on the day immediately following the last day of entitlement to that benefit.

**37.3** (3) the extended reduction period ends:

- a) at the end of a period of four weeks: or
- b) on the date on which the applicant who is receiving the extended reduction (qualifying income related or contributory benefits) has no liability for Council Tax, if that occurs first.

### **38. Amount of extended reduction**

**38.1** (1) for any week during the extended reduction period the amount of the extended reduction (qualifying income related or contributory benefits) the applicant is entitled to is the greater of:

- (a) the amount of reduction under the authority's scheme to which the applicant was entitled in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income related or contributory benefit:
- (b) the amount of reduction under the authority's scheme to which the

applicant would be entitled C for any reduction week during the extended reduction period, if extended reductions (qualifying income related or contributory benefits) did not apply to the applicant: or

- (c) the amount of reduction under the authority's scheme to which the applicant's partner would be entitled, if extended reductions (qualifying income related or contributory benefits) did not apply to the applicant.

**38.2** (2) sub-paragraph (1) does not apply in the case of a mover.

**38.3** (3) where an applicant is in receipt of an extended reduction (qualifying income related or contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under the authority's scheme, no reduction is to be awarded during the extended reduction period.

### **39. Relationship between extended reduction and entitlement to a Council Tax Reduction under the general conditions of entitlement**

**39.1** (1) where an applicant's reduction under an authority's scheme would have ended when the applicant ceased to be entitled to a qualifying income related or contributory benefit in the circumstances listed in extended reductions: qualifying income related benefits or extended reductions: qualifying contributory benefits, that reduction does not cease to have effect until the end of the extended reduction period.

**39.2** (2) part 9 (period of entitlement and changes of circumstances) does not apply to any extended reduction (qualifying income related or contributory benefits) payable in accordance with the rules for the amount of extended reduction: movers.

### **40. Continuing reductions where State Pension Credit claimed**

**40.1** (1) this paragraph applies where:

- (a) the applicant is entitled to a reduction under an authority's scheme:
- (b) sub-paragraph (2) is satisfied: and
- (c) either:
  - (i) the applicant has attained the qualifying age for State Pension Credit or

(ii) the applicant's partner has actually claimed State Pension Credit.

**40.2** (2) this sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed State Pension Credit or that:

(a) the applicant's award of:

(i) Income Support has terminated because the applicant has attained the qualifying age for State Pension Credit: or

(ii) Income-Based Jobseeker's Allowance or Income-Related employment and support allowance has terminated because the applicant has attained the qualifying age for State Pension Credit: and

(a) the applicant has claimed or is treated as having claimed or is required to make a claim for State Pension Credit.

**40.3** (3) subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to a reduction under an authority's scheme for the period of 4 weeks beginning on the day following the day on which the applicant's entitlement to Income Support or, as the case may be, Income-Based Jobseeker's Allowance or, Income-Related Employment and Support Allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under the scheme.

**40.4** (4) where a reduction under that scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3), and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under the scheme must continue to be awarded until the end of the reduction week in which the last day of that period falls.

**40.5** (5) throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4):

(a) the whole of the income and capital of the applicant is to be disregarded:

(b) the maximum Council Tax Reduction amount of the applicant is to be that which was applicable in his case immediately before that period commenced.

**40.6** (6) the appropriate maximum Council Tax Reduction amount is to be calculated in accordance with paragraph 7(1) if, since the date it was last calculated:

(a) the applicant's Council Tax liability has increased: or

(b) a change in the deduction under the non-dependent deductions rules falls to be made.



## **41. Extended reductions: movers into the authority's area**

### **41.1** where

- (a) an application is made to an authority 'the current authority' for a reduction under its scheme, and
- (b) the applicant, or the partner of the applicant, is in receipt of an extended reduction from
  - (i) another billing authority in England: or
  - (ii) a billing authority in Wales, the current authority must reduce any reduction to which the applicant is entitled under its scheme by the amount of that extended reduction.

## **42. Capital**

**42.1** For the purposes of this scheme there is no entitlement to Council Tax Reduction if capital exceeds the prescribed amount. The prescribed amount is £16,000 for the prescribed scheme for pension age, war pensioners and protected groups in classes Cand D.

For all other groups the prescribed capital limit is £6,000.

## **43. Calculation of capital**

Capital is to be calculated with this part and the appropriate schedule for either a pension age or a working age applicant.

**43.1** (1) the capital of an applicant to be taken into account must, subject to subparagraph (2), be the whole of his capital calculated in accordance with this part.

**43.2** (2) there must be disregarded from the calculation of an applicant's capital under subparagraph (1), any capital, where applicable, specified in the appropriate schedule for either pension age or a working age applicant (capital disregards).

(3) an applicant's capital is to be treated as including any payment made to him by way of arrears of:

- (a) Child Tax Credit:
- (b) Working Tax Credit:
- (c) State Pension Credit,

If the payment was made in respect of a period for the whole or part of which a reduction under an authority's scheme was allowed before those arrears were paid.

#### **44. Disregard of capital of child or young person**

**44.1** The capital of a child or young person who is a member of the applicant's family shall not be treated as capital of the applicant unless capital has been transferred to take advantage of the Reduction Scheme.

#### **45. Income treated as capital**

**45.1** (1) any bounty derived from employment as outlined below and paid at intervals of at least one year shall be treated as capital. in a case where paragraphs 3, 4, 5 and 6 do not apply to the applicant, £20 of earnings derived from one or more employments as:

as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that act applies: a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that act: an auxiliary coastguard in respect of coast rescue activities:

a person engaged part-time in the manning or launching of a life boat:

a member of any territorial or reserve force prescribed in part i of schedule 6 to the Social Security (contributions) Regulations 2001: but, notwithstanding the calculation of income and capital of members of the applicant's family and of a polygamous marriage under this scheme, if this paragraph applies to a applicant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20:

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

**45.2** (2) any amount by way of a refund of Income Tax deducted from profits or emoluments chargeable to Income Tax under schedule d or e shall be treated as capital.

**45.3** (3) any holiday pay which is not classed as earnings under the Reduction Scheme shall be treated as capital.

**45.4** (4) except any income derived from capital disregarded under the local authority

Reduction Scheme schedule, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the applicant's account.

- 45.5** (5) in the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer shall be treated as capital.
- 45.6** (6) any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the trusts, the fund, the Eileen trust, MFET limited, the Skipton fund, the Caxton foundation, the Independent Living Fund (2006) or the London bombings charitable relief fund, shall be treated as capital.
- 45.7** (7) there shall be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.
- 45.8** (8) any arrears of subsistence allowance which are paid to an applicant as a lump sum shall be treated as capital.
- 45.9** (9) any arrears of Working Tax Credit or Child Tax Credit shall be treated as capital.

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

- 46.1** capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less:
- (a) where there would be expenses attributable to the sale, 10 per cent:  
and
  - (b) the amount of any encumbrance secured on it.

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

- 47.1** Capital which an applicant possesses in a country outside the United Kingdom is to be calculated:
- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value:
  - (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer, less, where there would be expenses attributable to sale, 10 per cent and the amount of any encumbrances secured on it.

## **48. Notional capital**

**48.1** (1) an applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction under an authority's scheme or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with the diminishing notional capital rule in this scheme.

**48.2** (2) a person who disposes of capital for the purpose of:

(a) reducing or paying a debt owed by the applicant: or

(b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case, is to be regarded as not depriving himself of it.

**48.3** (3) where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case:

(a) the value of his holding in that company must, notwithstanding (the calculation of capital in this scheme) be disregarded: and

(b) he must, subject to sub-paragraph (4), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.

**48.4** (4) for so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (3) is to be disregarded.

**48.5** (5) where an applicant is treated as possessing capital under sub-paragraph (1) the foregoing provisions of this chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess. Except in the case of:

(a) a discretionary trust: or

(b) a trust derived from a payment made in consequence of a personal injury: or

(c) any loan which would be obtained only if secured against capital disregarded under the local authority Reduction Scheme: or

(d) a personal pension scheme, occupational pension scheme, or a payment made by the board of the pension protection fund or

(e) any sum to which under the local Reduction Scheme schedule (capital to be

disregarded) applies

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

**48.6** (6) any payment of capital, other than a payment of capital specified in paragraph (4), made:

(a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the board of the pension protection fund be treated as possessed by that single applicant or, as the case may be, by that member:

(b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any Council Tax or water charges for which that applicant or member is liable:

(c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

**48.7** (7) paragraph (3) shall not apply in respect of a payment of capital made:

(a) under or by any of the trusts, the fund, the Eileen trust, MFET limited, the Independent Living Fund (2006), the Skipton fund, the Caxton foundation, or the London bombings relief charitable fund:

(b) pursuant to section 2 of the 1973 Act in respect of a person's participation

(i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations:

(ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations:

(iii) in the intense activity period specified in regulation 75(1)(a)(iv) of those regulations:

(iv) in a qualifying course within the meaning specified in regulation 17a(7) of those Regulations: or in the flexible new deal specified in regulation 75(1)(a)(v) of those Regulations:

(ba) in respect of a person's participation in the work for your benefit pilot scheme:

(bb) in respect of a person's participation in the mandatory work activity scheme:

(bc) in respect of an applicant's participation in the employment, skills and enterprise scheme:

(c) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the board of the pension protection fund where:

(i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the solicitors (Scotland) Act 1980:

(ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors: and

(iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

**48.8** (8) where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case:

(a) the value of his holding in that company shall, notwithstanding the schedule of the local authority Reduction Scheme (calculation of capital) to be disregarded: and

(b) he shall, subject to paragraph (6), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

**48.9** (9) for so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (5) shall be disregarded.

**48.10** (10) where an applicant is treated as possessing capital under any of paragraphs (1) to (3) the foregoing provisions of this section shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

## **49. Diminishing notional capital**

**49.1** (1) where an applicant is treated as possessing capital under paragraph 48(1) (notional capital), the amount which he is treated as possessing:

(a) in the case of a week that is subsequent to:

(i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied: or

(ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3):

(b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where:

(i) that week is a week subsequent to the relevant week: and

(ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

**49.2** (2) this sub-paragraph applies to a reduction week where the applicant satisfies the conditions that:

(a) he is in receipt of a reduction under an authority's scheme: and

(b) but for paragraph 48 (1), he would have received a greater reduction under that scheme in that week.

**49.3** (3) in a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is to be equal to the aggregate of

(a) an amount equal to the additional amount of the reduction in Council Tax to which subparagraph (2)(b) refers:

(b) where the applicant has also claimed State Pension Credit, the amount of any State Pension Credit or any additional amount of State Pension

Credit to which he would have been entitled in respect of the reduction week to which sub- paragraph (2) refers but for the application of regulation 21(1) of the state pension credit Regulations 2002(a) (notional capital):

(c) where the applicant has also claimed Housing Benefit, the amount of any Housing Benefit or any additional amount of Housing Benefit to which he would have been entitled in respect of the whole or part of that reduction week to which sub-paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006(b) (notional capital):

(d) where the applicant has also claimed a Jobseeker's allowance, the amount of an income based Jobseeker's Allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996(c) (notional capital): and

(e) where the applicant has also claimed an Employment and Support Allowance, the amount of an Income-Related Employment and Support Allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the employment and support allowance Regulations 2008(d) (notional capital).

**49.4** (4) subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b), the condition is that the applicant would have been entitled to a reduction in Council Tax under the authority's scheme in the relevant week but for paragraph 48(1).

**49.5** (5) in such a case the amount of reduction in the amount of the capital which he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of

(a) the amount of the reduction in Council Tax to which the applicant would have been entitled in the relevant week but for paragraph 48(1):

(b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to State Pension Credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled:

if the applicant would, but for regulation 47(1) of the Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006, have been entitled to Housing Benefit or to an additional amount of Housing Benefit in respect of the benefit week, within the meaning of regulation 2 of those Regulations (interpretation),



which includes the last day of the relevant week, the amount which is equal to—( the last day of the relevant week, the amount to which he would have been entitled: and

- (c) if the applicant would, but for regulation 115 of the employment and support allowance Regulations 2008, have been entitled to an Income-Related Employment and Support Allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(a) s.i. 2002/1792: regulation 21 was amended by s.i. 2002/3019, s.i. 2002/3197, s.i. 2004/547.

(b) s.i. 2006/214.

(c) s.i. 1996/207.

(d) s.i. 2008/794: regulation 115 has been amended by s.i. 2008/2428, s.i. 2010/641, s.i. 2011/1707 and s.i. 2011/2425.

- 49.6** (6) but if the amount mentioned in paragraph (a), (b), (c), (d), or (e) of sub-paragraph (5) above ('the relevant amount') is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by:

- (a) dividing the relevant amount by the number equal to the number of days in that part week, and  
(b) multiplying the result of that calculation by seven.

- 49.7** (7) the amount determined under sub-paragraph (5) must be re-determined under that subparagraph if the applicant makes a further application for a reduction in Council Tax under the authority's scheme and the conditions in sub-paragraph (8) are satisfied, and in such a case:

- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words 'relevant week' there were substituted the words 'relevant subsequent week': and  
(b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

- 49.8** (8) the conditions are that:

- (a) a further application is made 26 or more weeks after:

- (i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under notional capital rules ;  
(ii) in a case where there has been at least one re-determination in accordance with subparagraph (5), the date on which he last made an application which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to a reduction in Council Tax under the authority's scheme, whichever last occurred: and

(b) the applicant would have been entitled to a reduction under the authority's scheme but for notional capital rules.

**49.9** (9) the amount as re-determined pursuant to sub-paragraph (7) does not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

**49.10** (10) for the purposes of this paragraph:

'part-week':

(a) in relation to an amount mentioned in sub-paragraph (5)(a) means a period of less than a week for which a reduction in Council Tax under an authority's scheme is allowed:

(b) in relation to an amount mentioned in sub-paragraph (5)(b) means a period of less than a week for which Housing Benefit is payable:

(c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e) means:

(i) a period of less than a week which is the whole period for which Income Support, an Income-Related Employment and Support Allowance or, as the case may be, an Income-Based Jobseeker's Allowance is payable: and

(ii) any other period of less than a week for which it is payable: 'relevant week' means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of notional capital rules

(a) was first taken into account for the purpose of determining his entitlement to a reduction under an authority's scheme:  
or

(b) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction under that authority's scheme, and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition the later or latest such reduction week or, as the case may be, the later or latest such part-week of the relevant week:

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

## **50. Capital jointly held**

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

## **51. Date on which entitlement begins**

**51.1** (1) subject to sub-paragraph (2), any person by whom or in respect of whom an application for a reduction under an authority's scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.

**51.2** (2) where a person is otherwise entitled to a reduction under an authority's scheme and becomes liable for the first time for the authority's Council Tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he shall be so entitled from that reduction week or where an intention to claim via an early notification is received through Universal Credit with an application being received in 4 weeks at a designated office or when the customer has been made liable for Council Tax, newly or backdated and a form is received in within 4 weeks.

## **52. Date on which a change of circumstances is to take effect**

**52.1** (1) except in cases where disregard of changes in Tax, contributions, etc applies and subject to regulation 8(3) of the decisions and appeals Regulations 2001 the following provisions of this paragraph and the change of circumstances when State Pension Credit in payment, a change of circumstances which affects entitlement to, or the amount of, a reduction under an authority's scheme ('change of circumstances'), takes effect from the first day of the reduction week following the date on which the change actually occurs.

**52.2** (2) where that change is cessation of entitlement to any benefit under the benefit acts, entitlement to that benefit.

**52.3** (3) subject to sub-paragraph (4), where the change of circumstances is a change in the amount of Council Tax payable, it takes effect from the day on which it actually occurs.

**52.4** (4) where the change of circumstances is a change in the amount a person is liable to pay in respect of Council Tax in consequence of Regulations under section 13 of the 1992 Act (reduced amounts of Council Tax) or changes in the discount to which a dwelling may be subject under sections 11 or 11a (discounts) of that act (a), it takes effect from the day on which the change in amount has effect.

**52.5** (5) where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.

**52.6** (6) where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.

**52.7** (7) if two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (3) to (6) above refers, or, where more than one day is concerned, from the earlier day.

**52.8** (8) where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit

under the Social Security Contributions and Benefits Act , is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authority's scheme.

**52.9** (9) without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authority's scheme.

**52.10** (10) sub-paragraph (11) applies if either:

(i) a non-dependant took up residence in the applicant's dwelling:  
or

(ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 8 (non-dependent deductions) increased.

**52.11** (11) where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

**52.12** (12) in sub-paragraph (11), but subject to sub-paragraph (13), 'the effective date' means:

(a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—

(i) the date on which the applicant's entitlement to a reduction under the authority's scheme first began: or

(ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred:

(b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.

**52.13** (13) if in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is the first day of the next reduction week to commence after the date determined under that sub-paragraph.

Government Act 2003 (c. 26) ('2003 Act'): section 11 was amended by section 127 of, and paragraphs 40 and 42 of schedule 7 and part 1 of schedule 8 to, the 2003 Act: section 11a was inserted by section 75 of the 2003 Act and amended by section 11 of the Local Government Finance Act 2012 (c. 17).

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

**53.1** (1) subject to sub-paragraphs (3) and (9), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time:

(a) between the making of an application and a decision being made on it,  
or

(b) after the decision is made (where the decision is that the applicant is entitled to a reduction under an authority's scheme) including at any time while the applicant is in receipt of such a reduction.

**53.2** (2) the applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a 'relevant change of circumstances') by giving notice to the authority:

(a) in writing: or

(b) by telephone

(i) where the authority has published a telephone number for that purpose or for the purposes of part 1 of schedule 7 unless the authority determines that in any particular case or class of case notification may not be given by telephone: or

(ii) in any case or class of case where the authority determines that notice may be given by telephone: or

(c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

**53.3** (3) the duty imposed on a person by sub-paragraph (1) does not extend to notifying:

(a) changes in the amount of Council Tax payable to the authority:

(b) changes in the age of the applicant or that of any member of his family:

(c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.

**53.4** (4) for the purposes of sub-paragraph (3)(c) 'relevant benefit' means Income Support, an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support Allowance or Universal Credit.

**53.5** (5) notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.

**53.6** (6) the duty imposed on a person by sub-paragraph (1) includes in the case of a person falling within class C (pensioners: alternative maximum Council Tax Reduction), giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of State Pension Credit, the date when this occurs.

**53.7** (7) a person who has been awarded a reduction under an authority's scheme who is also on State Pension Credit must report:

(a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides:

(b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks or where the absence is from Great Britain, which exceeds or is likely to exceed 4 weeks.

**53.8** (8) in addition to the changes required to be reported under sub-paragraph (7), a person whose State Pension Credit comprises only a savings credit must also report:

(a) changes affecting a child living with him which may result in a change in the amount of reduction under the authority's scheme allowed in his case, but not changes in the age of the child:

(b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000:

(c) any change in the income or capital of

- (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 12 of schedule 1 (circumstances in which income of a non-dependant is to be treated as applicant's): or
- (ii) a person to whom paragraph 14(2)(e) of schedule 1 refers (partner treated as member of the household under regulation 8), and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

**53.9** (9) a person who is entitled to a reduction under an authority's scheme and on State Pension Credit need only report to the authority the changes specified in sub-paragraphs (7) and (8)

**54. Procedure by which a person may apply for a reduction under the authority's scheme (including applications for a discretionary reduction)**

**54.1.** This part outlines how to apply for a Council Tax Reduction under the authority's scheme. Further details are provided in the accompanying document.

**54.2.** An application may be made:

(a) in writing,

(b) by means of an electronic communication in accordance with part 4 of this schedule, or

(c) where an authority has published a telephone number for the purpose of receiving such applications, by telephone.

**54.3** An application which is made in writing must be made to the designated office on a properly completed form.

**54.4** The form is provided free of charge by the authority for the purpose.

**54.5** Where an application made in writing is defective because:

(a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed: or

(b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence, the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.



- 54.6** An application made on a form provided by an authority is not properly completed if it is not completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.
- 54.7** If an application made by electronic communication is defective an authority will provide the person making the application with an opportunity to correct the defect.
- 54.8** An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.
- 54.9** In a particular case an authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.

(1) if an application made by telephone is defective the authority will provide the person making the application with an opportunity to correct the defect.

(2) an application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

## **55. Procedure for making an appeal**

Procedure by which a person may appeal against certain decisions of the authority. Further details are provided in the accompanying document.

**55.1** a person who is aggrieved by a decision of an authority which affects:

- (a) the person's entitlement to a reduction under its scheme, or
- (b) the amount of any reduction to which that person is entitled, may serve a written notice on that authority stating the matter by which, and the grounds on which, he is aggrieved.

**55.2** the authority will:

- (a) consider the matter to which the notice relates:

the recipient of any such information delivered by means of an electronic communication from an official computer system, the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

## **56. Proof of delivery of information**

**56.1** If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where:

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

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

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

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

## **57. Proof of content of information**

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

## **58. Alternative means of notifying changes of circumstances**

**58.1** The duty to notify a change of circumstances in accordance with the local authority Council Tax Reduction Scheme may be discharged by notifying the local authority through the 'tell us once scheme':

(a) where the change of circumstances is a birth or death, through a relevant authority, by personal attendance at an office specified by the authority

(b) where the change of circumstances is a death, by telephone to a telephone number specified for that purpose by the local authority.

## **59. Information and evidence**

**59.1** (1) subject to sub-paragraph (3), a person who makes an application for a reduction under an authority's scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

**59.2** (2) this sub-paragraph is satisfied in relation to a person if:

(a) the application is accompanied by:

(i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person: or

(ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person: or

(b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by:

(i) evidence of the application for a national insurance number to be so allocated: and

(ii) the information or evidence enabling it to be so allocated.

**59.3** (3) sub-paragraph (2) does not apply:

(a) in the case of a child or young person in respect of whom an application for a reduction is made:

(b) to a person who:

(i) is a person treated as not being in Great Britain for the purposes of these Regulations(a):

(ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999: and

(iii) has not previously been allocated a national insurance number.

**59.4** (4) subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under an authority's scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the

award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.

- 59.5** (5) nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- 59.6** (6) where an authority makes a request under sub-paragraph (4), it must:
- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances: and
  - (b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which must be notified.
- 59.7** (7) this sub-paragraph applies to any of the following payments:
- (a) a payment which is made under or by the trusts, the fund, the Eileen trust, MFET limited, the Skipton fund, the Caxton Foundation, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Windrush Compensation Scheme, the National Emergencies Trust or the London bombings relief charitable fund:
    - (aa) a Grenfell Tower Support Payment
  - (b) a payment which is disregarded under paragraph 16 of schedule 6 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006):
  - (c) a payment which is disregarded under paragraph 8(10) of schedule 1.
- 59.8** (8) where an applicant or a person to whom a reduction under an authority's scheme has been awarded or any partner has attained the qualifying age for State Pension Credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information:
- (a) the name and address of the pension fund holder**(b)**:
  - (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

(a) as to which, see paragraph 12 of schedule 1.

(b) for provisions requiring a pension fund holder to provide information to the billing authority see Regulations under section 14a of the Local Government Finance Act 1992

## **60. Collection of information**

**60.1** (1) the local authority, or a person providing services to him, may receive or obtain relevant information from:

(a) persons making, or who have made, claims for Council Tax Reduction:  
or

(b) other persons in connection with such claims.

**60.2** (2) in paragraph (1) references to persons who have made claims for Council Tax Reduction include persons to whom awards of reduction have been made on those claims. The authority which obtains relevant information or to whom such information is supplied:

(a) shall make a record of such information: and

(b) may hold that information, whether as supplied or obtained or recorded, for the purpose of forwarding it to the person or authority for the time being administering Council Tax Reduction. the authority shall request and provide any information, for any purposes in connection with the application for Council Tax reduction including sharing information with other local authorities and the Department for Work and Pensions, and any internal department.

## **61. Amendment and withdrawal of application**

**61.1** (1) a person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

**61.2** (2) where the application was made by telephone in accordance with part 1 of schedule 7, the amendment may also be made by telephone.

**61.3** (3) any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.

**61.4** (4) a person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

**61.5** (5) where the application was made by telephone in accordance with part 1 of

schedule 7, the withdrawal may also be made by telephone.

**61.6** (6) any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

**61.7** (7) where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

## **62. Decision by authority**

**62.1** an authority must make a decision on an application under its scheme within 14 days of paragraphs 4 and 7 and part 1 of schedule 7 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012 being satisfied, or as soon as reasonably practicable thereafter.

## **63. Notification of decision**

**63.1** (1) an authority must notify in writing any person affected by a decision made by it under its scheme:

- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter:
- (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

**63.2** (2) where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement:

- (a) informing the person affected of the duty imposed by paragraph 9(1) of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012
- (b) explaining the possible consequences (including prosecution) of failing to comply with that duty: and
- (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.

**63.3** (3) where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.

**63.4** (4) in any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in the authority's scheme relating to the

procedure for making an appeal.

- 63.5** (5) a person affected to whom an authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.
- 63.6** (6) the written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.
- 63.7** (7) for the purposes of this paragraph a person is to be treated as a person affected by a decision of an authority under its scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).
- 63.8** (8) this sub-paragraph applies to:
- (a) the applicant:
  - (b) in the case of a person who is liable to pay Council Tax in respect of a dwelling and is unable for the time being to Act:
  - (c)
    - (i) a deputy appointed by the court of protection with power to claim, or as the case may be, receive benefit on his behalf: or
    - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the adults with incapacity (Scotland) Act 2000(a) who has power to apply or, as the case may be, receive benefit on the person's behalf: or
    - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the powers of attorney Act 1971(b), the enduring powers of attorney Act 1985(c) or the mental capacity Act 2005(d) or otherwise, (c) a person appointed by an authority under paragraph 4(3) (persons appointed to Act for a person unable to Act).

(a) 2000 asp 4.

(b) 1971 c. 27.

(c) 1985 c. 29: this Act has been repealed but transitional and savings provisions continue to apply.

(d) 2005 c. 9.

## **64. Time and manner of granting Council Tax Reduction**

**64.1** (1) subject to the rules of the scheme regarding payments on death and offsetting in this scheme, where a person is entitled to an award Council Tax Reduction in respect of his liability for a relevant authority's Council Tax as it has effect in respect of the relevant or any subsequent chargeable financial year, the relevant authority shall discharge his entitlement:

(a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (administration and enforcement) Regulations 1992(a) (the english and Welsh Regulations) or regulation 20(2) of the Council Tax (administration and enforcement) (Scotland) Regulations 1992(b) (the scottish Regulations) refers: or

(b) where:

(i) such a reduction is not possible: or

(ii) such a reduction would be insufficient to discharge the entitlement to Council Tax benefit: or

(iii) the person entitled to Council Tax Reduction is jointly and severally liable for the tax and the relevant authority determines that such a reduction would be inappropriate, by making payments to him of the benefit to which he is entitled, rounded where necessary to the nearest penny.

**64.2** (2) the authority shall notify the person entitled to Council Tax Reduction of the amount of that reduction and how his entitlement is to be discharged in pursuance of paragraph (1).

**64.3** (3) in a case to which paragraph (1)(b) refers:

(a) if the amount of the Council Tax for which he remains liable in respect of the relevant chargeable financial year, after any reduction to which paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to Council Tax reduction in respect thereof to be discharged in that year, upon the final instalment of that Tax becoming due any outstanding benefit:

(i) shall be paid to that person if he so requires: or

(ii) in any other case shall (as the relevant authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's Council Tax as it has effect for any subsequent year:



(b) if that person has ceased to be liable for the relevant authority's Council Tax and has discharged the liability for that Tax, the outstanding balance (if any) of the Council Tax Reduction in respect thereof shall be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter:

(c) in any other case, the Council Tax Reduction shall be paid within 14 days of the receipt of the claim at the designated office or, if that is not reasonably practicable, as soon as practicable thereafter.

**64.4** (4) 'instalment' means any instalment of a relevant authority's Council Tax to which regulation 19 of either the English and Welsh Regulations or as the case may be the Scottish Regulations refers (Council Tax payments).

## **Cheshire West and Chester rules for excess reductions**

### **65. Meaning of excess reduction**

**65.1** Excess reduction means any amount which has been allowed by way of a Council Tax reduction and to which there was no entitlement, either under the initial decision or subsequently. This includes any excess which arises by reason of a change in the amount a person is liable to pay in respect of Council Tax.

### **66. Recoverable excess reduction**

**66.1** Any excess reduction howsoever caused shall be recoverable.

### **67. General provision relating to excess reductions**

The Council may have regard to any amount of Council Tax Reduction which should have been determined to be awarded in respect of the whole or part of the overpaid period. When information in respect of this provision is requested, the overpaid person will have one month to provide the requested information, or such longer period that the Council deems reasonable.

The excess reduction shall be recovered by the Council from the applicant or person to whom the reduction was awarded by addition being made to the Council Tax concerned.

There are no prescribed requirements for the contents of a notification of reduction and it is not proposed to include them here.

## **68. Offsetting**

- 68.1** (1) where a person has been allowed or paid a sum of Council Tax Reduction under a decision which is subsequently revised or superseded or further revised or superseded, any sum allowed or paid in respect of a period covered by the subsequent decision shall be offset against arrears of entitlement under the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.
- 68.2** (2) where an amount has been deducted an equivalent sum shall be offset against any arrears of entitlement under the subsequent determination.

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

- 69.1** This part applies to persons who are pensioners and persons who are not pensioners.
- (a) the person entitled to the reduction is jointly and severally liable for the Council Tax: and
  - (b) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (administration and enforcement) Regulations 1992(a) refers would be inappropriate, it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.
- 69.2** (2) subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.
- 69.3** (3) where a person other than a person who is entitled to a reduction under this scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 4(3) or is treated as having been so appointed by virtue of paragraph 4(4), the amount of the reduction may be paid to that person.

(a) s.i. 1992/613.

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

This rule shall apply as prescribed in regulation 5, schedule 1, part 1, of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

## **71. Annual up-rating of benefits**

Where a change of circumstances is an order under section 150 of the Social Security Administration Act, the change shall take effect on 1 April of each financial year.

## **Explanatory note**

(This note is not part of Regulations)

Section 13a of the Local Government Finance Act 1992 (c. 14) ('1992 Act'), substituted by section 10 of the Local Government Finance Act 2012 (c. 17), requires each billing authority in England to make a scheme specifying the reductions which are to apply to amounts of Council Tax payable by persons, or classes or persons, whom the authority considers are in financial need.

Paragraph 2 of schedule 1a to the 1992 Act sets out matters that must be included in a scheme and gives the Secretary of State power to prescribe by Regulations additional requirements, including classes of persons, which must or must not be included in a scheme.

Part 1 of these Regulations contains introductory provisions and definitions of key words and phrases.

Part 2 prescribes pensioners as a class of persons who must be included in a scheme and prescribes persons who are treated as not being in Great Britain and persons subject to immigration control as classes of persons who must be excluded.

Part 3, and schedules 1 to 8, prescribes other provisions that must be included in a scheme, including matters relevant to determining eligibility for a reduction and the amount of reduction under the scheme, how income and capital of the applicant is treated in calculating eligibility for a reduction, extended reductions in certain circumstances, and procedural matters. Schedules 1 to 6 contain matters that must be included in a scheme in respect of pensioners. Schedules 7 and 8 contain matters that must be included in a scheme in respect of all applicants.

An impact assessment of the effect that section 13a of the 1992 Act will have on the public sector is available on the inside government website [www.gov.UK/government/uploads/system/uploads/attachment\\_data/file/8465/2158675.pdf](http://www.gov.UK/government/uploads/system/uploads/attachment_data/file/8465/2158675.pdf). It is also published with the explanatory memorandum alongside this instrument on [www.legislation.gov.UK](http://www.legislation.gov.UK).

## **72. Energy Rebate Scheme 2022**

(1) A Scheme must include provision that any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining -

- (a) an applicant's entitlement to a reduction under the scheme; or
- (b) the amount of any reduction to which the applicant is entitled.

(2) In this regulation, "the Energy Rebate Scheme 2022" means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3<sup>rd</sup> February 2022.

### **73. Homes for Ukraine Scheme**

(1) A scheme must include provision that any payment made in connection with the Homes for Ukraine scheme is to be disregarded in determining;

(a) an applicant's entitlement to a reduction under the scheme; or

(b) The amount of any reduction to which the applicant is entitled

(2) In this regulation "the Homes for Ukraine scheme" means the Homes for Ukraine sponsorship scheme which was announced in Parliament by the Secretary of State for Levelling Up, Housing and Communities on 14<sup>th</sup> March 2022.

## **Part 2**

# **Prescribed classes of persons (prescribed pension age scheme)**

## **1. Introduction- prescribed scheme for pension age applicants**

- 1.1** This is the prescribed scheme which applies to applicants of pension age only, as defined in the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012.
- 1.2** Any applicants of pension age who are also defined as war pensioners within this scheme will be subject to specific protections outlined above for **working age** classes **C** and **D**. They will also have a full disregard of a war pension that is defined in this scheme.
- 1.3** The Council will apply a means test comparing the income of the household against the applicable amounts and premiums outlined in this document. In addition to this, the applicant must be liable to pay Council Tax for a property which is determined as their main residence.
- 1.4** This scheme will not apply to any applicant who is subject to immigration control as outlined in this document or for any applicant deemed to be a person from abroad.
- 1.5** Any applicant of pension age that has capital in excess of £16,000 will not be eligible for Council Tax Reduction under this scheme. A tariff income will also be applied for any applicant of pension age as calculated in accordance with this scheme.
- 1.6** Applications can be considered for pension age applicants for a period of up to 3 months prior to the date of claim subject to the conditions stipulated in this scheme.
- 1.7** Applicants that have a non- dependant in the household (as defined in this scheme) will schedule 1 part 3 regulation 8 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012. This also defines non dependants for whom no deduction will be made.

## **2. Meaning of ‘pensioner’ and ‘person who is not a pensioner’**

This defines pensioners and requires ‘a person’ to have ‘attained the qualifying age for State Pension Credit’

**2.1** in the Regulations a person is:

(a) a ‘pensioner’ if:

(i) he has attained the qualifying age for State Pension Credit: and

(ii) he is not and, if he has a partner, his partner is not

(aa) a person on Income Support, on an Income-Based Jobseeker’s allowance or on an Income-Related employment and support allowance: or

(bb) a person with an award of Universal Credit: and

(b) a ‘person who is not a pensioner’ if:

(i) he has not attained the qualifying age for State Pension Credit: or

(ii) he has attained the qualifying age for State Pension Credit and he, or if he has a partner, his partner, is:

(aa) a person on Income Support, on Income-Based Jobseeker’s allowance or an Income-Related employment and support allowance: or

(bb) a person with an award of Universal Credit.

**2.2.** For the purposes of sub-paragraphs (a)(ii)(bb) and (b)(ii)(bb) in paragraph (1) an award of universal credit is to be disregarded during the relevant period.

**2.3** “assessment period” has the same meaning as in the Universal Credit Regulations 2013(a);

“relevant period” means the period beginning with the day on which P and each partner of P has attained the qualifying age for state pension credit and ending with the day on which the last assessment period for universal credit ends

**(a) S.I. 2013/376. As to assessment periods see regulation 21 of those Regulations, amended by S.I 2014/2887, 2015/1362 and 2018/65.**

### **3. Pensioners**

- 3.1** (1) subject to paragraph (2), the classes of pensioners described in paragraph 1 of schedule 1 are classes of person prescribed for the purposes of paragraph 2(9)(b) of schedule 1a to the 1992 Act(a) and which must be included in an authority's scheme.
- 3.2** (2) pensioners whose capital exceeds £16,000 are a class of person prescribed for the purposes of that paragraph and which must not be included in an authority's scheme.
- 3.3** (3) capital for the purposes of paragraph (2) is to be calculated in accordance with part 6 of schedule 1.



#### **4. Provision for pensioners**

The scheme makes a provision for pensioners, and it contains the provisions in schedules 1 to 6.

**4.1** (1) the scheme makes provision in respect of pensioners.

**4.2** (2) schedules 1 to 6, which contain those matters that must be included in a scheme in respect of pensioners, have effect.

#### **5. Classes of persons entitled to a reduction under the prescribed scheme for pension age applicants**

This part outlines three classes of pensioners entitled to a reduction:

**5.1** (1) the classes of pensioners described in paragraphs 2 to 4 are entitled to a reduction under an authority's scheme.

**5.2** (2) in those paragraphs, references to an applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

**5.3 (3) class A: pensioners whose income is no greater than than the applicable amount**

On any day class a consists of any person who is a pensioner:

(a) who is for that day liable to pay Council Tax in respect of a dwelling of which he is a resident:

(b) who, subject to paragraph 5 (periods of absence from a dwelling), is not absent from the dwelling throughout the day:

(c) in respect of whom a maximum Council Tax Reduction amount can be calculated:

(d) who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of schedule 1a to the 1992 Act as a class of person which must not be included in an authority's scheme:

(e) whose income (if any) for the relevant week does not exceed his applicable amount: and

(f) who has made an application.

**5.4 (4) class B: pensioners whose income is greater than the applicable amount**

On any day class b consists of any person who is a pensioner:

(a) who is for that day liable to pay Council Tax in respect of a dwelling of which he is a resident:

(b) who, subject to paragraph 5, is not absent from the dwelling throughout the day:

(c) in respect of whom a maximum Council Tax Reduction amount can be calculated:

(d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of schedule 1a to the 1992 Act as a class of person which must not be included in an authority's scheme:

(e) whose income for the relevant week is greater than his applicable amount:

(f) in respect of whom amount a exceeds amount b where:

(i) amount a is the maximum Council Tax Reduction in respect of the day in the applicant's case: and

(ii) amount b is  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount: and

(g) who has made an application.

(a) 'resident' in relation to a dwelling is defined in section 6(5) of the 1992 Act.

## 5.5 (5) Class C: alternative maximum Council Tax Reduction

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

(ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount:

(d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay Council Tax) as applies in the case of the applicant: or

(d) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

(a) 1992 c. 14: section 9 was amended by section 74 of the Local Government Act 2003 (c. 26) and paragraph 140 of schedule 27 to the Civil Partnership Act 2004 (c. 33).

## 6. Amount of alternative maximum Council Tax Reduction

6.1 1) subject to paragraphs 2 and 3, the alternative maximum Council Tax Reduction in respect of a day for the purpose of paragraph 9 of schedule 1 is determined in accordance with the following table and in this table:

(a) 'second adult' means any person or persons residing with the applicant to whom paragraph 4(2) of schedule 1 applies (class c): and

(b) 'person to whom paragraph 75(1) of schedule 1 to the default scheme Regulations applies' includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit.

2) in this schedule 'Council Tax due in respect of that day' means the Council Tax payable under section 10 of the 1992 Act<sup>(b)</sup> less:

(a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under an authority's scheme): and

(b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

23. and see also paragraph 9 of schedule 1.

24. 1992 c. 14.

| (1) Second adult  | (2) Alternative maximum Council Tax Reduction  |
|---|--|
| <p>(a) Where the second adult or all second adults are in receipt of Income Support, an Income-Related Employment and Support Allowance or State Pension Credit or are persons on an income based Jobseeker's allowance:</p> <p>(b) Where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on Income Support, an income related Employment and Support Allowance, State Pension Credit or an Income-Based Jobseeker's allowance—</p> <p>(i) is less than £265.00 per week:</p> <p>(ii) is not less than £265.00 per week but less than £344.00 per week:</p> <p>(c) Where the dwelling would be wholly occupied by one or more persons to whom paragraph 73(1) of schedule 1 to the default scheme Regulations applies but for the presence of one or more second adults who are in receipt of Income Support, State Pension Credit, an Income-Related Employment and Support Allowance or are persons on an Income-Based Jobseeker's allowance.</p> | <p>(a) 25 per cent of the Council Tax due in respect of that day:</p> <p>(i) 15 per cent of the Council Tax due in respect of that day:</p> <p>(ii) 7.5 per cent of the Council Tax due in respect of that day:</p> <p>(c) 100 per cent of the Council Tax due in respect of that day.</p> |

**6.2** In determining a second adult's gross income for the purposes of this schedule, the following must be disregarded from that income :

(a) any Attendance Allowance, or any Disability Living Allowance or any Personal Independence Payment under part 4 of the Welfare Reform Act 2012 or an Armed Forces Independence Payment: and

(b) any payment to which paragraph 8(9)(b) or (10) of schedule 1 to these regulations refers (and sub-paragraph (13) of paragraph 8 applies to this paragraph as it applies in relation to that paragraph).

**6.3** Where there are two or more second adults residing with the applicant and any such second adult falls to be disregarded for the purposes of discount in accordance with schedule 1 to the 1992 Act, his income is to be disregarded in determining the amount of any alternative maximum Council Tax Reduction, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

## **7. Making an application**

- 7.1** 1) in the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.
- 7.2** (2) where a person who is liable to pay Council Tax in respect of a dwelling is unable for the time being to Act, and:
- (a) a deputy has been appointed by the court of protection with power to claim, or as the case may be, receive benefit on his behalf: or
  - (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf: or
  - (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise, that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.
- 7.3** (3) where a person who is liable to pay Council Tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, an authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.
- 7.4** (4) where a person who is liable to pay Council Tax in respect of a dwelling is for the time being unable to Act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (claims and payments) Regulations 1987 (persons unable to Act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- 7.5** (5) where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—
- (a) it may at any time revoke the appointment:
  - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so:
  - (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).



**7.6** (6) anything required by an authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.

**7.7** (7) the authority must:

- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a):
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty: and
- (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

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

**8.1** (1) subject to sub-paragraph (7), the date on which an application is made is—  
(a) in a case where:

- (i) an award of State Pension Credit which comprises a Guarantee Credit has been made to the applicant or his partner, and
- (ii) the application for a reduction is made within one month of the date on which the claim for that State Pension Credit which comprises a Guarantee Credit was received at the appropriate DWP office, the first day of entitlement to State Pension Credit which comprises a guarantee credit arising from that claim:

(b) in a case where:

- (i) an applicant or his partner is a person in receipt of a guarantee credit,
- (ii) the applicant becomes liable for the first time to pay Council Tax in respect of the dwelling he occupies as his home, and
- (iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place:

(c) in a case where;

- (i) an award of Income Support, an Income-Based Jobseeker's Allowance or an Income Related Employment and Support Allowance or an award of Universal Credit has been made to the applicant or his partner, and
- (ii) the application is made within one month of the date on which the claim for that Income Support, Jobseeker's allowance, employment and support allowance or Universal Credit was received, the first day of entitlement to Income Support, an Income-Based Jobseeker's allowance, an Income-Related Employment and Support Allowance or Universal Credit arising from that claim:

(d) in a case where:

- (i) an applicant or his partner is a person on Income Support, an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support allowance or has an award of Universal Credit,
- (ii) the applicant becomes liable for the first time to pay Council Tax in respect of the dwelling which he occupies as his home, and
- (iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place:

(e) in a case where:

- (i) an applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under an authority's scheme, and
- (ii) the applicant makes an application for a reduction under that scheme within one month of the date of the death or the separation, the date of the death or separation:

(f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as an authority considers reasonable) of the date on which an application form was issued to an applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification:

(g) in any other case, the date on which an application is received at the designated office.

**8.2** (2) for the purposes only of sub-paragraph (1)(c) a person who has been awarded an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support Allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for Regulations made under:

(a) in the case of Income-Based Jobseeker's allowance, paragraph 4 of schedule 1 to the Jobseekers Act 1995 (waiting days): or.

(b) in the case of Income-Related Employment and Support Allowance, paragraph 2 of schedule 2 to the Welfare Reform Act 2007 (waiting days), have been entitled to that allowance.

**8.3** (3) where the defect referred to in paragraph 7 of schedule 7 (applications by telephone):

(a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance:

(b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.

**8.4** (4) an authority must treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.

**8.5** (5) the conditions are that:

(a) where paragraph 4(a) of schedule 7 (incomplete form) applies, the authority receives at its designated office the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable: or

(b) where paragraph 4(b) of schedule 7 (application not on approved form or further information requested by authority) applies:

(i) the approved form sent to the applicant is received at the designated office properly completed within one month of it having been sent to him: or, as the case may be.

(ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that schedule within one month of the request, or, in either case, within such longer period as the authority may consider reasonable: or

(c) where the authority has requested further information, the authority receives at its designated office the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.

**8.6** (6) except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for Council Tax to an authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.

**8.7** (7) except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under an authority's scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than;

(a) in the case of an application made by:

(i) a pensioner, or

(ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, the seventeenth reduction week following the date on which the application is made, or

(b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

**8.8** (8) in this paragraph 'appropriate DWP office' means an office of the Department for Work and Pensions dealing with State Pension Credit or an office which is normally open to the public for the receipt of claims of Income Support, a Jobseeker's Allowance or an Employment and Support Allowance.

## **9. Back-dating of applications**

**9.1** (1) this paragraph applies only to persons who are pensioners.

**9.2** (2) subject to sub-paragraph (3), the time for the making of an application under an authority's scheme is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.

**9.3** (3) in any case where paragraph 5(1)(a) (date on which application made: State Pension Credit comprising guarantee credit) applies, sub-paragraph (2) does not entitle a person to apply for a reduction under an authority's scheme in respect of any day earlier than three months before the date on which the claim for State Pension Credit is made (or treated as made by virtue of any provision of the Social Security (claims and payments) Regulations 1987).

## **10. Applicable amounts for pension age applicants**

This refers to schedules, where the personal allowances and premiums are prescribed

**10.1** (1) the applicable amount for a pensioner (g) for a week is the aggregate of such of the following amounts as apply in his case:

(a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of schedule 2 to these Regulations:

(b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that schedule:

(a) 1983 c. 20.

(b) 2003 asp 13.

(c) 1995 c. 46

(d) s.i. 1986/595 (n.i. 4).

(e) 1952 c. 52.

(f) 1989 c. 45.

(g) including pensioners who are in polygamous marriages by virtue of regulation 5.

(c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that schedule (family premium):

(d) the amount of any premiums which may be applicable to him, determined in accordance with parts 3 and 4 of that schedule (premiums).

**10.3** (2) in schedule 2:

'additional spouse' means a spouse of either party to the marriage who is additional to the other party to the marriage:

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

## **11. Maximum Council Tax Reduction under a scheme**

This sets the calculation of the daily Tax eligible for a reduction

**11.1** (1) subject to sub-paragraphs (2) to (4), a person's maximum Council Tax Reduction amount in respect of a day is 100 per cent of the amount a/b where:

(a) a is the amount set by the authority as the Council Tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act: and

(b) b is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 8 (non-dependent deductions).

**11.2** (2) in calculating a person's maximum Council Tax Reduction under the authority's scheme any reduction in the amount that person is liable to pay in respect of Council Tax, which is made in consequence of any enactment in, or made under, the 1992 act (other than a reduction under that authority's scheme), is to be taken into account.

- 11.3** (3) subject to sub-paragraph (4), where an applicant is jointly and severally liable for Council Tax in respect of a dwelling in which he is resident with one or more other persons in determining the maximum Council Tax Reduction in his case in accordance with sub-paragraph (1), the amount a is to be divided by the number of persons who are jointly and severally liable for that tax.
- 11.4** (4) where an applicant is jointly and severally liable for Council Tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- 11.5** (5) the reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for Council Tax does not include a student to whom paragraph 75(1) of the schedule to the default scheme Regulations(b) applies.
- 11.6** (6) in this paragraph 'relevant financial year' means, in relation to any particular day, the financial year within which the day in question falls.

## **12. Non dependant deductions**

This prescribes the rates of deductions and the circumstances under which no deduction is to be made

**12.1** (1) subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 7 are:

(a) in respect of a non-dependant aged 18 or over in remunerative work,

£15.10 x 1/7:

(b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £4.90 x 1/7.

(a) s.i. 2005/3360.  
(b) s.i. 2012/2886.

**12.2** (2) in the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is:

(a) less than £256.00, the deduction to be made under this paragraph is that specified in subparagraph (1)(b):

(b) not less than £256.00 but less than £445.00, the deduction to be made under this paragraph is £10.05:

(c) not less than £445.00 but less than £554.00, the deduction to be made under this paragraph is £12.60.

- 12.3** (3) only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.
- 12.4** (4) in applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- 12.5** (5) where in respect of a day:
- (a) a person is a resident in a dwelling but is not himself liable for Council Tax in respect of that dwelling and that day:
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for Council Tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 act (liability of spouses and civil partners): and
  - (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- 12.6** (6) no deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is;
- (a) Severely sight-impaired or blind or treated as such by virtue of sub-paragraphs (12) or (13) below: or
  - (b) receiving in respect of himself either:
    - (i) Attendance Allowance, or would be receiving that allowance but for:
      - (aa) a suspension of benefit in accordance with Regulations under section 113(2) of the Social Security Contributions and Benefits Act (a): or
      - (bb) an abatement as a result of hospitalisation: or



(ii) the care component of the Disability Living Allowance, or would be receiving that component, but for:

(aa) a suspension of benefit in accordance with Regulations under section 113(2) of the Social Security Contributions and Benefits Act : or

(bb) an abatement as a result of hospitalisation: or

(iii) the daily living component of Personal Independence Payment, or would be receiving that allowance but for a suspension of benefit in accordance with Regulations under section 86 of the Welfare Reform Act 2012**(b)** (hospital in-patients):

(iiia) the daily living component of adult disability payment, or

(iv) an Armed Forces Independence Payment , or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

(a) 1992 c..4.

(b) 2012 c. 5.

**12.7** (7) no deduction is to be made in respect of a non-dependant if:

(a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere: or

(b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973**(a)** or section 2 of the Enterprise and New Towns (Scotland) Act 1990**(b)**: or

(c) he is a full-time student within the meaning of part 11 of the schedule to the default scheme Regulations (students): or

(d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes:

(i) 'patient' has the meaning given in paragraph 5(6) of this schedule, and

(ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

**12.8** (8) no deduction is to be made in respect of a non-dependant:

- (a) who is on Income Support, State Pension Credit, an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support Allowance:
- (b) to whom schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non dependant who is a student to whom paragraph 4 of that schedule refers; or
- (c) who is entitled to an award of Universal Credit where the award is calculated on the basis that the person does not have any earned income

**12.9** (9) in the application of sub-paragraph (2) there is to be disregarded from the non-dependant's weekly gross income:

- (a) any Attendance Allowance, Disability Living Allowance, Child Disability Payment, Personal Independence payment, Adult Disability Payment or Armed Forces Independence Payment received by him:
- (b) any payment made under or by the trusts, the fund, the Eileen trust, MFET limited, the Skipton fund, the Caxton foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Windrush Compensation Scheme, the National Emergencies Trust, the Victims of Overseas Terrorism Compensation Scheme or the Independent Living Fund (2006) which are paid as income in kind (see sub-paragraph (13): and
  - (ba) any Grenfell Tower support payment which is paid as income in kind (see sub-paragraph 13)
  - (bb) any historical child abuse payment;
  - (bc) any Windrush payment
  - (bd) any Post Office Compensation Payment
  - (be) any Vaccine Damage Payment
- (c) the payments set out in sub-paragraph (10).

**12.10** (10) the payments mentioned in sub-paragraph (9) are:

- (a) any payment made under or by the trusts, the fund, the Eileen trust, MFET limited, the Skipton fund, the Caxton foundation, the

Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Windrush Compensation Scheme, the National Emergencies Trust or the Independent Living Fund (2006):

(aa) any Grenfell Tower support payment

(ab) any historical child abuse payment

(ac) any Windrush payment

“(ad)any Post Office compensation payment;

(ae)any vaccine damage payment;

(af)any payment out of the estate of a person to that person’s son, daughter, step-son or step-daughter, which derives from a payment to meet the recommendation of the Infected Blood Inquiry in its interim report published on 29th July 2022(9) made under or by the Scottish Infected Blood Support Scheme or an approved blood scheme ;”.

(b) any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the trusts to which paragraph (a) refers or from a Grenfell Tower support payment and which is made to or for the benefit of:

(i) that person’s partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person’s death:

(a) 1973 c. 50: section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and subsequently amended by section 29 of, and part 1 of schedule 7 to, the Employment Act 1989 (c. 38) and, in relation to Scotland only, section 47 of the trade union reform and Employment Rights Act 1993 (c. 19).

(b) 1990 c. 35: section 2 was amended by section 47 of the trade union reform and Employment Rights Act 1993 (c. 19): article 4 of, and paragraph 100 of schedule 2 to, s.i. 1999/1820: and paragraph 20 of schedule 26 to the equality Act 2010

(ii) any child who is a member of that person’s family or who was such a member and who is a member of the applicant’s family: or

(iii) any young person who is a member of that person’s family or who was such a member and who is a member of the applicant’s family:

(c) any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of

them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the trusts to which paragraph (a) or refers from a Grenfell Tower support payment and which is made to or for the benefit of:

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

(ii) the payment is made either:

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

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

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

(i) any payment of income or capital made under or deriving from any of the trusts referred to in paragraph (a) or

(ii) a Grenfell Tower support payment.

(g) any payment made under, or by, a trust which is approved by the Secretary of State and which is established for the purpose of giving relief and assistance to a disabled person whose disability was caused by their mother having taken a preparation containing the drug known as Thalidomide during her pregnancy.

**12.11** (11) An applicant or his partner is severely sight impaired or blind or treated as such for the purposes of sub-paragraph (6)(a) if the applicant or his partner (a) is blind and in consequence registered in a register compiled by a local authority in Wales under Section 29 of the National Assistance Act 1948(a) (welfare services) or (b) is registered as severely sight impaired in a register kept by a local authority in England under Section 77(1) of the Care Act 2014 (register of sight impaired adults) or (c) 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(b).

**12.11A** (11A) For the purposes of sub-paragraph (8), "earned income" has the meaning given in regulation 52 of the Universal Credit Regulations 2013

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

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

### **13. Council Tax Reduction taper**

The prescribed percentage for the purpose the local authority Council Tax Reduction Scheme, (percentage of excess of income over the applicable amount which is deducted from maximum, Council Tax benefit), shall be 20 per cent.

### **14. Alternative maximum Council Tax Reduction for pensioners**

This prescribes the calculation of a second adult reduction under the pension age scheme in accordance with schedule 3 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012.

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

### **15. Amount of reduction under a scheme: pensioner classes A to C**

- 15.1** (1) where a person is entitled to a reduction under an authority's scheme in respect of a day, the amount of the reduction to which he is entitled is as follows.
- 15.2** (2) where the person is within class a, that amount is the maximum Council Tax Reduction amount in respect of the day in the applicant's case.
- 15.3** (3) where the person is within class b, that amount is the amount found by deducting amount b from amount a, where 'amount a' and 'amount b' have the meanings given in paragraph 3 (income greater than applicable amount).
- 15.4** (4) where the person is within class C, that amount is the amount which is the alternative maximum Council Tax Reduction in respect of the day in the applicant's case.
- 15.5** (5) sub-paragraph (6) applies where both:

- (a) sub-paragraph (2) or sub-paragraph (3), and
- (b) sub-paragraph (4), apply to a person.

(6) the amount of the reduction to which he is entitled is whichever is the greater of:

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

**(a) 1948 c. 29. subsection (1) was amended by section 195 of, and paragraph 2 of schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11 of schedule 13 and paragraph 1 of schedule 14 to, the Children Act 1989 (c. 41). other amendments have been made to this section but they are not relevant to these Regulations.**

**(b) 1994 c. 39: section 2 was amended by paragraph 232 of schedule 22 to the Environment Act 1995 (c. 39).**

## **16. Applicant in receipt of Guarantee Credit**

**16.1** In the case of an applicant who is in receipt, or whose partner is in receipt, of a Guarantee Credit, the whole of his capital and income must be disregarded.

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

This provides for the savings credit, assessed income figure and modifications to the aif. It does not contain reference to s139 Administration Act (war pensions) but has a provision for 'such further reduction (if any) as the authority thinks fit under section 13a (1) (c) of the 1992 Act.

**17.1** (1) in determining the income and capital of an applicant who has, or whose partner has, an award of State Pension Credit comprising only the savings credit, subject to the following provisions of this paragraph, an authority must use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of State Pension Credit.

**17.2** (2) where the calculation or estimate provided by the Secretary of State includes the amount taken into account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—

(a) the amount of any savings credit payable:

(b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 24(1)(c) (calculation of income on a weekly basis):

(c) the higher amount disregarded under this schedule in respect of—

(i) lone parent's earnings: or

(ii) payments of maintenance, whether under a court order or not, which are made or due to be made by:

(aa) the applicant's former partner, or the applicant's partner's former partner: or

(bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner:

(d) any amount to be disregarded by virtue of paragraph 10(1) of schedule 4 (sums disregarded from earnings):



(e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under regulation 8, to the extent that it is not taken into account in determining the net income of the person claiming State Pension Credit:

(f) paragraph 12 (circumstances in which income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case:

(g) such further reduction (if any) as the authority thinks fit under section 13a(1)(c) of the 1992 Act(a):

(h) any amount to be disregarded by virtue of paragraph 6 of schedule 4.

**17.3** (3) paragraphs 16 to 36 of this schedule do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).

**17.4** (4) if sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 31 to 36 of this schedule.

**17.5** (5) this sub-paragraph applies if:

(a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less:

(b) subsequent to that determination the applicant's capital rises to more than £16,000: and

(c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002(a).

(a) 1992 c. 14: section 13a(1)(c) was inserted by section 10 of the Local Government Finance Act 2012 (c. 17).

## **18. Calculation of income and capital where State Pension Credit is not payable**

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

## **19. Notional income**

**19.1** (1) an applicant is to be treated as possessing:

(a) subject to sub paragraph (2), the amount of any Retirement Pension income:

(i) for which no claim has been made: and

(ii) to which he might be entitled if a claim for it were made.

(a) income from an occupational pension scheme which the applicant elected to defer.

**19.2** (2) sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred:

(a) a category a or category b Retirement Pension payable under sections 43 to 55 of the Social Security Contributions and Benefits Act :

(b) a shared additional pension payable under section 55a or 55aa of the Social Security Contributions and Benefits Act (**a**):

(c) Graduated Retirement Benefit payable under sections 36 and 37 of the National Insurance Act 1965(**b**).

(d) A state pension under Part 1 of the Pensions Act 2014

**19.3** (3) for the purposes of sub-paragraph (2), entitlement has been deferred:

(a) in the case of a category a or category B pension, in the circumstances specified in section 55(3) of the Social Security Contributions and Benefits Act (**c**):

(b) in the case of a shared additional pension, in the circumstances specified in section 55c(3) of the Social Security Contributions and Benefits Act (**d**):

(c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4a) of the National Insurance Act 1965.

(d) In the case of a state pension under Part 1 of the Pensions Act 2014, in the circumstances specified in section 17(7) and (8) of that Act.

**19.4** (4) this sub-paragraph applies where a person who has attained the qualifying age for State Pension Credit:

(a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme:

(b) fails to purchase an annuity with the funds available in that scheme:  
and

(c) either:

(i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or

(ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme.

**19.5** (5) where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.

**19.6** (6) the amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the rate of the annuity which may have been purchased with the fund and must be determined by the authority, taking account of information provided by the pension fund holder.

**19.7** (7) the amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies is to be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).

**19.8** (8) in sub-paragraph (4), 'money purchase benefits' has the same meaning as in the pensions scheme Act 1993(e).

**19.9** (9) subject to sub-paragraphs (10) (11A), (11B) and (12), a person will be treated as possessing income of which he has deprived himself for the purpose

of securing entitlement to a reduction under the authority's scheme or increasing the amount of the reduction.

**19.10** (10) sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under schedule 5 or 5a(f) to the Social Security Contributions and Benefits Act or under schedule 1 to the Social Security (graduated retirement benefit) Regulations 2005(a), changes that election in accordance with Regulations made under schedule 5 or 5a to that act in favour of a lump sum.

(a) section 55a was inserted by section 50 of, and paragraphs 1 and 3 of schedule 6 to, the Welfare Reform and Pensions Act 1999 (c. 30). it was subsequently amended by section 41(3) of the child support, Pensions and Social Security Act 2000 (c. 19). (b) 1965 c. 51. whilst both sections 36 and 37 were repealed by section 100 of the Social Security Act 1973 (c. 38) they continue to have effect for transitional purposes in the modified form set out in schedule 1 to s.i. 1978/393.

(c) section 55(3) was amended by section 2 of, and paragraph 7 of schedule 1 to, the Pensions Act 2007 (c. 22).

(d) section 55c was inserted by section 50 of, and paragraphs 1 and 3 of schedule 6 to, the Welfare Reform and Pensions Act 1999 (c. 30). it was substituted by section 297 of the Pensions Act 2004 (c. 35).

(e) 1993 c. 48.

(f) amendments have been made to schedule 5 but they are not relevant to these Regulations. schedule 5a was inserted by section 297 of, and paragraph 15 of schedule 11 to, the Pensions Act 2004 (c. 35). it has been modified for certain purposes by regulation 3 of s.i. 2005/469 and rates in paragraph 2 of the schedule have been up rated by article 4 of s.i. 2012/780.

**19.11** (11) in sub-paragraph (10), 'lump sum' means a lump sum under schedule 5 or 5a to the Social Security Contributions and Benefits Act or under schedule 1 to the Social Security (graduated retirement benefit) Regulations 2005.

(11A) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension where a person, having made a choice in favour of that increase of pension under section 8(2) of the Pensions Act 2014, alters that choice in accordance with the Regulations made under section 8(7) that act in favour of a lump sum.

(11B) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension where a person, having made a choice in favour of that increase of pension in accordance with the Regulations made under section 10 of the Pensions Act 2014 which include provision corresponding or similar to section 8(2) of that Act, alters that choice in favour of a lump sum, in accordance with Regulations made under section 10 of that act, which include provision corresponding to Regulations made under section 8(7) of that Act.

(11C) In sub-paragraph (11A) "lump sum" means a lump sum under section 8 of the Pension Act 2014.

(11D) In sub-paragraph (11D) "lump sum" means a lump sum under Regulations made under section 10 of the Pensions Act 2014 which include provision corresponding or similar to section 8 of that act.

**19.12** (12) sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant participating as a service user.

**19.13** (13) where an applicant is in receipt of any benefit under the benefit acts and the rate of that benefit is altered with effect from a date on or after 1 April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1 April or the first Monday in April in that year, whichever date the authority selects to apply, to the date on which the altered rate is to take effect.

**19.14** (14) in the case of an applicant who has, or whose partner has, an award of State Pension Credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with paragraph (13), the authority must:

(a) determine the income and capital of that applicant in accordance with paragraph 14(1) (calculation of applicant's income in savings credit only cases) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1 April in any year but not more than 14 days thereafter: and

(b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).

**19.15** (15) for the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where:

(a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from that scheme, and

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

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

(a) s.i. 2005/454: relevant amendments (the insertion of part 2a in schedule 1) were made by s.i. 2005/2677.

(b) 2004 c. 12: paragraph 7 has been amended by paragraph 29 of schedule 16 and paragraph 4 of schedule 18 to the Finance Act 2011 (c. 11).

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

Tariff income is £1 per £500 band over £10 000

There is no prescribed capital limit in this part, since schedule 1, part 1, contains the requirement to have no more than £16, 000 capital

**20.1** The capital of an applicant, calculated in accordance with this part **(a)**, is to be treated as if it were a weekly income **(b)** of:

(a) £1 for each £500 in excess of £10,000 but not exceeding £16,000: and

(b) £1 for any excess which is not a complete £500.

(a) see chapters 1 and 3 of this part and the capital to be disregarded in accordance with schedule 6.

(b) income from capital is taken into account in calculating income: see paragraph 16(1)(i).

## **21. Change of circumstances where State Pension Credit is in payment**

This regulation requires notification from the Secretary of State for work and pensions

**21.1** (1) sub-paragraphs (2) and (3) apply where:

(a) an applicant is in receipt of State Pension Credit:

(b) the amount of State Pension Credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error: and

(c) the change in the amount of State Pension Credit payable to the applicant results in a change in the amount of a reduction he receives under an authority's scheme.

**21.2** (2) where the change of circumstance is that an increase in the amount of State Pension Credit payable to the applicant results in

(a) an increase in the reduction he receives under that scheme, the change takes effect from the first day of the reduction week in which State Pension Credit becomes payable at the increased rate: or

(b) a decrease in the reduction he receives under that scheme, the change takes effect from the first day of the reduction week next following the date on which:

(i) the authority receives notification from the Secretary of State of the increase in the amount of State Pension Credit: or

(ii) State Pension Credit is increased, whichever is the later.

**21.3** (3) where the change of circumstance ('the relevant change') is that the applicant's State Pension Credit has been reduced and in consequence the reduction the applicant receives under the authority's scheme reduces:

(a) in a case where the applicant's State Pension Credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect from the first day of the reduction week from which State Pension Credit was reduced: or

(b) in any other case the relevant change takes effect from the first day of the reduction week next following the date on which:

(i) the authority receives notification from the Secretary of State of the reduction in the amount of State Pension Credit: or

(ii) State Pension Credit is reduced, whichever is the later.

**21.4** (4) where the change of circumstance is that State Pension Credit is reduced and in consequence of the change, the amount of a reduction the applicant receives under the authority's scheme is increased, the change takes effect from the first day of the reduction week in which State Pension Credit becomes payable at the reduced rate.

**21.5** (5) where a change of circumstance occurs in that an award of State Pension Credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under the authority's scheme, the change takes effect from the first day of the reduction week next following the date on which:

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

(b) entitlement to State Pension Credit begins, whichever is the later.

**21.6** (6) where, in the case of an applicant who, or whose partner, is or has been awarded State Pension Credit comprising only the savings credit, there is:

(a) a change of circumstances of a kind described in any of subparagraphs (2) to (5) which results from a relevant calculation or estimate: and

(b) a change of circumstances which is a relevant determination, each of which results in a change in the amount of reduction the applicant

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

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

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

**21.9** (9) in this paragraph 'official error' means an error made by:

(a) an authority or a person:

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

(ii) providing services relating to its scheme directly or indirectly to the authority: or

(b) an officer of:

(i) the Department for Work and Pensions: or

(ii) the commissioners of inland revenue, acting as such, but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court: 'relevant calculation or estimate' means the calculation or estimate made by the Secretary of State of the applicant's or, as the case may be, the applicant's partner's income and capital for the purposes of the award of State Pension Credit: 'relevant determination' means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 14(1) (calculation of applicant's income in savings credit only cases).



**Where references are to the Council Tax benefit Regulations 2006, (si 2006 no. 215) the words 'Council Tax benefit' should be substituted for 'Council Tax Reduction' and the word 'claimant' substituted for 'applicant'.**

**references in the originating legislations (sis 2006, numbers 215 and 213 respectively) to disability allowance should have the following amendments:**

**for Disability Living Allowance – 'Disability Living Allowance, or Personal Independence Payments'**

**for care component – 'care component or daily living component'**

**for 'middle or high rate' – 'middle or high rate or standard or enhanced rate'  
\*subject to hb amending Regulations\***

# Schedules

## **Schedule 1 (for working age)**

## **1. Personal allowances**

The amounts specified below in respect of each person or couple specified shall be the amounts specified for the purposes of the working age Council Tax Reduction Scheme for Cheshire west and Chester.

## **2. Person, couple or polygamous marriage**

### **2.1 A single applicant or lone parent:**

- (a) is entitled to main phase Employment and Support Allowance (a) £90.50
- (b) aged not less than 25 (b) £90.50
- (c) is aged not less than 18 but less than 25 (c) £71.70

### **2.2 a couple:**

- (a) both under 18 £108.30
- (b) one or both over 18 £142.25

### **2.3 If the applicant is a member of a polygamous marriage and no members of the marriage have attained the age of 60**

- (a) £142.25
- (b) for each additional spouse who is a member of the same household as the applicant
- (c) £51.75

### **2.4 For the purposes of paragraph 1 above an applicant is entitled to main phase Employment and Support Allowance if:**

- (a) paragraph 21 is satisfied in relation to the applicant: or
- (b) the applicant is entitled to a converted Employment and Support Allowance, or would be entitled but for the application of section 1a of the Welfare Reform Act (duration of contributory allowance).

### **3. Child or young person amounts**

The amounts specified below in respect of each person specified shall, for the relevant period specified be the amounts specified for the purposes of this scheme

#### **3.1 Child or young person person**

in respect of the period:

(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday:

(a) £83.24:

(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.

(b) £83.24.

'the first Monday in September' means the Monday which first occurs in the month of September in any year.

This will be up rated an annual basis in accordance with the Housing Benefit Regulations 2006.

### **4. Family premium**

#### **4.1** The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a Family of which at least one member is a child or young person

(a) is £19.15 in respect of a reduction week which begins in the period beginning with 1st April 2016 and ending with 30th April 2016 unless continually entitled since 06 April 1998 in which case protected rate of £22.20;

(b) is nil in respect of a reduction week which begins after 1st May 2016.

## 5. Other premiums

Including disability premium, severe disability premium, enhanced disability premium, disabled child premium and carer premium

- 5.1** The premiums specified in this scheme are for the purposes of paragraph 6(1)(d) of schedule 1, applicable to an applicant who satisfies the condition specified in this part in respect of that premium.

Subject to sub-paragraph (2), for the purposes of this part, once a premium is applicable to an applicant under this part, a person is to 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(a) applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit: and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 (b), or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(c) or for any period during which he is in receipt of a training allowance.

- 5.2** (2) for the purposes of the carer premium under paragraph 9, a person is to be treated as being in receipt of a 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

(a) Attendance Allowance,

(b) the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act (d)

(c) the care component of child disability payment at the highest or middle rate in accordance with regulation 11(5) of the DACYP Regulations

(d) the daily living component of Personal Independence Payment paid at the enhanced rate prescribed in accordance with part 4 of the Welfare Reform Act 2012(e)

(e) the daily living component of Adult Disability Payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or

(f) an Armed Forces Independence Payment .

(a) s.i. 1979/597.

(b) 1973 c. 50: section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and subsequently amended by section 29 of, and part 1 of schedule 7 to, the Employment Act 1989 (c. 38) and, in relation to Scotland only, section 47 of the trade union reform and Employment Rights Act 1993 (c. 19).

(c) 1990 c. 35: section 2 was amended by section 47 of the trade union reform and Employment Rights Act 1993 (c. 19): article 4 of, and paragraph 100 of schedule 2 to, s.i. 1999/1820: and paragraph 20 of schedule 26 to the equality Act 2010 (c. 15).

(d) 1992 c. 4: section 72 has been repealed by section 90 of the Welfare Reform Act 2012 (c. 5) but that provision is not yet in force.

(e) 2012 (c. 5).

## 6. Disability premium

6.2 the condition is that:

(a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for State Pension Credit and the additional condition specified in this scheme is satisfied: or (b) where the applicant has a partner, either:

(i) the applicant has not attained the qualifying age for State Pension Credit and the additional condition specified in this scheme or

(b) is satisfied by him: or

(ii) his partner has not attained the qualifying age for State Pension Credit and the additional condition specified in paragraph 13(1)(a) is satisfied by his partner.

additional condition for the disability premiums subject to sub-paragraph (2) and paragraph 7, the additional condition referred to in paragraphs 11 and 12 is that either:

(a) the applicant or his partner:

(i) is in receipt of one or more of the following benefits: Attendance Allowance, Disability Living Allowance, Personal Independence Payment, Adult Disability Payment, the disability element or the severe disability element of Working Tax Credit as specified in regulation 20(1)(b) and (f) of the working Tax credit 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 applicant has since remained continuously entitled to Council Tax benefit and, if the long-term Incapacity Benefit was payable to his partner, the partner is still a member of the family: or

(iii) was in receipt of Attendance Allowance, Personal Independence Payments 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 applicant or his partner becoming a patient within the meaning of treatment of child care charges under this scheme.

(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 (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by scottish ministers) or receives payments by way of grant from the Secretary of State under paragraph 2 of schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, by Scottish ministers under section 46 of the Act of 1978: or

(v) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a Council constituted under section 2 of the local government (Scotland) Act 1994: or

(b) the applicant:

(i) is, or is treated as, incapable of work in accordance with the provisions of, and Regulations made under, part 12a of the 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 applicant who is terminally ill within the meaning of section 30b(4) of the act, 196 days:

(bb) in any other case, 364 days.

**6.2** (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.

**6.3** (3) for the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).



- 6.4** (4) for the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.
- 6.5** (5) for the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.
- 6.6** (6) for the purposes of this paragraph, a reference to a person who is or was in receipt of long-term Incapacity Benefit includes a person who is or was in receipt of short-term Incapacity Benefit at a rate equal to the long-term rate by virtue of section 30b(4)(a) of the Act (short-term Incapacity Benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term Incapacity Benefit at such a rate but for the fact that the rate of short-term Incapacity Benefit already payable to him is or was equal to or greater than the long-term rate.
- 6.7** (7) for the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a applicant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990.
- 6.8** (8) in the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13a(1) of the Social Security (incapacity for work) (general) Regulations 1995 applies, and who again becomes incapable of work for the purposes of part 12a of the Act):
- (a) the reference to a period of eight 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 104 weeks.
- 6.9** (9) the applicant is not entitled to the disability premium if the applicant has, or is treated as having, limited capability for work.

## 7. Severe disability premium

7.1 (1) the condition is that the applicant is a severely disabled person.

7.2 (2) for the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if:

(a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3):

(i) he is in receipt of  
(aa) Attendance Allowance

(bb) the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act

(cc) the daily living component of Personal Independence Payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012

(dd) the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or

(ee) an Armed Forces Independence Payment : and

(ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing: and

(iii) no person is entitled to, and in receipt of, a Carer's Allowance under section 70 of the Social Security Benefit Contributions Act in respect of caring for him or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013(a)";

(b) in the case of an applicant who has a partner:

(i) the applicant is in receipt of

(aa) Attendance Allowance

(bb) the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act

(cc) the daily living component of personal independence payment paid at the enhanced rate prescribed in accordance with part 4 of the Welfare Reform Act 2012,

(dd) the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or

(ee) an Armed Forces Independence Payment :

(ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance: and

(iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and either a person is entitled to and in receipt of a carer's allowance or has an award of universal credit which includes the carer element in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance or has such an award of universal credit in respect of caring for either member of a couple or any of the members of the marriage.

**7.3** (3) where an applicant has a partner who does not satisfy the condition in sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.

**7.4** (4) for the purposes of sub-paragraph (3), a person is blind or severely sight impaired if he is registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948(a) (welfare services), or is registered as severely sight impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight impaired adults) 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(b).

- 7.5** (5) for the purposes of sub-paragraph (4), a person who has ceased to be registered as blind or severely sight impaired on regaining his eyesight is nevertheless to be treated as such 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.
- 7.6** (6) for the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of:
- (a) a person receiving
    - (i) Attendance Allowance
    - (ii) the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act
    - (iii) the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012,
    - (iv) the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or
    - (v) an Armed Forces Independence Payment : or
  - (iv) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).
- (c)** (7) for the purposes of sub-paragraph (2)(b) a person is to be treated:

(a) as being in receipt of Attendance Allowance, or the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt:

(a) 1948 c. 29. subsection (1) was amended by section 195 of, and paragraph 2 of schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11 of schedule 13 and paragraph 1 of schedule 14 to, the Children Act 1989 (c. 41). other amendments have been made to this section but they are not relevant to these Regulations.

(b) 1994 c. 39: section 2 was amended by paragraph 232 of schedule 22 to the environment Act 1995 (c. 39).

(b) as being in receipt of the daily living component of Personal Independence Payment paid at the rate prescribed in accordance with part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so entitled and in receipt notwithstanding section 86 of that act and Regulations made there under:

(ba) as being in receipt of the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations, if they would, but for payment ceasing by virtue of regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of those Regulations, be so in receipt.

(c) as being in receipt of an Armed Forces Independence Payment, if he would, but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution:

(d) as being entitled to and in receipt of a Carer's Allowance or having an award of universal credit which includes the carer element 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 or have such an award of universal credit.

**7.8** (8) for the purposes of sub-paragraph (2)(a)(iii) and (2)(b):

(a) no account is to be taken of an award of Carer's Allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid: and

(c) a reference to a person being in receipt of a Carer's Allowance or as having an award of universal credit which includes the carer element is to include reference to a person who would have been in receipt of that allowance or had such an award of universal credit but for the application of a restriction under section 6b or 7 of the Social Security fraud Act 2001 (loss of benefit)(a).

(a) 2001 c. 11: section 6b was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of schedule 2 and part 1 of schedule 7 to, the Welfare Reform Act 2009 (c. 24): sections 31, 113, 118, 119, 121 and 147 of, and paragraphs 56 and 58 of schedule 2, paragraphs 15 and 16 of schedule 3, parts 1 and 12 of schedule 14, to the Welfare Reform Act 2012 (c. 5) – of which only those made by section 113 (to subsection (1)(b)) are in force. section 7 was amended by section 14 of, and part 3 of schedule 3 to, the State Pension Credit Act 2002 (c. 16): sections 28 and 49 of, and paragraph 23 of schedule 3 to, the Welfare Reform Act 2007 (c. 5): sections 9, 24 and 58 of, and paragraphs 9 and 11 of schedule 2, part 1 of schedule 4 and part 1 of schedule 7 to, the Welfare Reform Act 2009 (c. 24) (of which those made by sections 9, 31 and schedule 7 are not yet in force): article 3 of s.i. 2011/2298: sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of schedule 2, paragraphs 15 and 17 of schedule 3 and part 1 of schedule 14 to, the Welfare Reform Act 2012. (c. 5), none of which are yet in force

## 8. Enhanced disability premium

### 8.1 (1) the condition is that:

- (a) The Secretary of State has decided that the claimant has, or is to be treated as having limited capability for work related activity
  - (aa) the care component of child disability payment is payable at the highest rate in accordance with regulation 11(5) of the DACYP Regulations;
  - (ab) the daily living component of adult disability payment is payable or has ceased to be payable by virtue of regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the DAWAP Regulations, at the enhanced rate in accordance with regulation 5 of those Regulations.
- (b) 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 Social Security Contributions and Benefits Act or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that act: or
- (c) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of payment in accordance with Regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate under section 78(2) of that act, in respect of a child or young person who is a member of the applicant's family.
- (d) An Armed Forces Independence Payment

### 8.2 (2) where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to Child Benefit in respect of that person under section 145a of the Social Security Contributions and Benefits Act (b) (entitlement after death of child or qualifying young person).

(b) 1992 (c. 4): section 145a was inserted by the Tax Credits Act 2002 (c. 21): subsections (1) and (4) were subsequently amended by section 1 of, and paragraphs 1 and 12 of schedule 1 to, the Child Benefit Act 2005 (c. 6): subsections (2) and (5) were amended, and subsection (6) inserted, by section 254 of, and paragraph 48 of schedule 24 to, the civil partnership Act 2004 (c. 33).

## **9. Disabled child premium**

**8.1** the condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household:

(a) is in receipt of Disability Living Allowance or Personal Independence Payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family: or

(aa) is in receipt of child disability payment; or

(b) is blind within the meaning of paragraph 6(4) of this schedule or treated as blind in accordance with paragraph 6(5): or

(c) is a child or young person in respect of whom section 145a of the Social Security Contributions and Benefits Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to Child Benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

(d) is a young person who is in receipt of adult disability payment or who would, but for payment ceasing by virtue of regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the DAWAP Regulations be so in receipt, provided that the young person continues to be a member of the family; or

(e) is a young person who is in receipt of an Armed Forces Independence Payment.

## **10. Carer premium**

**10.1** (1) the condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.

**10.2** (2) where a carer premium has been awarded but:

(a) the person in respect of whose care the Carer's Allowance has been awarded dies: or

(b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance, this paragraph shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

**10.3** (3) the relevant date for the purposes of sub-paragraph (2) is:

(a) in a case within sub-paragraph (2)(a) the Sunday following the death of the person in respect of whose care the Carer's Allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday):

(b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a Carer's Allowance ceases to be entitled to it.

**10.4** (4) for the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a Carer's Allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

## **11. Persons in receipt of concessionary payments**

**11.1** For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9 of this schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

## **12. Person in receipt of benefit**

**12.1** For the purposes of this part, a person is to be regarded as being in receipt of any benefit if and only if, it is paid in respect of him and is to be so regarded only for any period in respect of which that benefit is paid.



## **13. Amounts of premiums**

### **13.1 Disability premium:**

(a) where the applicant satisfies the condition in this scheme (a) £42.50:

(b) where the applicant satisfies the condition in this scheme (b): (b) £60.60

### **13.2 Severe disability premium:**

(a) where the applicant satisfies the condition in this scheme (a) £81.50:

(b) where the applicant satisfies the condition in this scheme(b):

(j) in a case where there is someone in receipt of a Carer's Allowance or who has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013 or if he or any partner satisfies that condition only by virtue of this this scheme:

£81.50:

(ii) in a case where there is no-one in receipt of such an allowance or such an award of universal credit.

£163.00

### **13.3 Enhanced disability premium:**

- (a) £32.20 in respect of each child or young person in respect of whom the conditions specified in this scheme are satisfied.
- (b) £20.85 in respect of each person who is neither:
  - (i) a child or young person: nor
  - (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in this scheme are satisfied:
- (c) £29.75 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in this scheme are satisfied in respect of a member of that couple or polygamous marriage.

### **13.4 Disabled child premium:**

- (a) £80.01 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied.

### **13.5 Carer premium:**

- (a) £45.60 in respect of each person who satisfies the condition specified in paragraph 9

## **14. Components**

Subject to the conditions of this section the applicant is entitled to one, but not both, of the components specified in this part:

(a) the applicant or their partner has made a claim for Employment and Support Allowance:

(b) the Secretary of State has decided that the applicant or their partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity: and

(c) either:

(i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended: or

(ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

- 14.1 the applicant is entitled to one, but not both, of the components specified in this part if the applicant or his partner is entitled to a converted Employment and Support Allowance, or would be entitled but for the application of section 1a of the Welfare Reform Act (duration of contributory allowance).
- 14.2 The applicant has no entitlement if they are entitled to the disability premium specified in this scheme
- 14.3 Where the applicant and their partner each satisfies these conditions the component to be included in the applicants applicable amount is that which relates to the applicant.

## **15. The work-related activity component**

- 15.1 The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or their partner has, or is to be treated as having, limited capability for work.

## **16. The support component**

- 16.1 The applicant is entitled to the support component if the Secretary of State has decided that the applicant or their partner has, or is to be treated as having, limited capability for work-related activity.

## **17. Amount of components**

- 17.1 The amount of the work-related activity component is £35.95.
- 17.2 The amount of the support component is £47.70.

## **18. Transitional addition**

- 18.1 The applicant is entitled to the transitional addition calculated in accordance with paragraph 30 where the applicant or their partner ('the relevant person'):
  - (a) is entitled to a converted Employment and Support Allowance, or would be entitled but for the application of section 1a of the Welfare Reform Act (duration of contributory allowance): or
  - (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (existing awards) Regulations and:

(i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (existing awards) Regulations; and

(ii) is not in receipt of an Income-Related employment and support allowance, unless the amount of the transitional addition calculated in accordance with paragraph 30 would be nil.

**18.2** The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following:

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31:
- (b) the termination of the applicant's award of Council Tax Reduction:
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be:
- (d) the applicant or their partner becoming entitled to an Income-Related Employment and Support Allowance, an Income-Based Jobseeker's Allowance or Income Support:
- (e) 5 April 2020.

**18.3** This paragraph applies where:

- (a) the applicant's entitlement to a transitional addition, ends by virtue of the termination of the applicant's award of Council Tax Reduction under this scheme:
- (b) within 12 weeks of that termination but before 5 April 2020 the applicant again becomes entitled to Council Tax Reduction:
- (c) in the benefit week in which the applicant again becomes entitled to Council Tax reduction the relevant person is entitled to an employment and support allowance which is not Income-related: and
- (d) at the date on which the applicant again becomes entitled to Council Tax reduction, neither the applicant or their partner is entitled to an Income-Related Employment and Support Allowance, an Income-Based Jobseeker's Allowance or Income Support.

**18.4** Where this paragraph applies, the applicant is entitled, with effect from the day on which they again becomes entitled to Council Tax Reduction, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

**18.5** The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following:

(a) the reduction of the transitional addition to nil in accordance with paragraph 31:

(b) the termination of the applicant's award of Council Tax Reduction:

(c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c):

(d) the applicant or their partner becoming entitled to an Income-Related Employment and Support Allowance, an Income-Based Jobseeker's Allowance or Income Support:

(e) 5 April 2020.

**18.6** Applies where:

(a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an Employment and Support Allowance, under this scheme:

(b) before 5 April 2020 the relevant person again becomes entitled to an Employment and Support Allowance which is not Income-related:

(c) at the date on which the relevant person again becomes entitled to an Employment and Support Allowance which is not Income-related, regulation 145(1) of the Employment and Support Allowance Regulations applies to the relevant person: and

(d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not Income-related, neither the applicant or their partner is entitled to an Income-Related employment and support allowance, an Income-Based Jobseeker's Allowance or Income Support.

**18.7** Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to Employment and Support Allowance takes effect for Council Tax Reduction purposes, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

**18.8** The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following:

(a) the reduction of the transitional addition to nil in accordance with paragraph 31:

(b) the termination of the applicant's award of Council Tax Reduction:

(c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b):

(d) the applicant or their partner becoming entitled to an Income-Related Employment and Support Allowance, an Income-Based Jobseeker's Allowance or Income Support:

(e) 5 April 2020.

## **19. Amount of transitional addition**

**19.1** (1) subject to paragraph 31, the amount of the transitional addition is the amount by which amount a exceeds amount b.

**19.2** (2) where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (existing awards) Regulations is made in respect of the relevant person:

(a) amount a is the basic amount that would have applied on the day that decision took effect had that decision not been made: and

(b) amount b is the basic amount that applied on that day as a result of that decision.

**19.3** (3) where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (existing awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (existing awards) Regulations:

(a) amount a is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated: and

(b) amount b is the basic amount that applied on that day as a result of the relevant person being so treated.

**19.4** (4) in this paragraph and paragraph 31, 'basic amount' means the aggregate of such amounts as may apply in the applicant's case in accordance with regulation 12(a) to (e) or regulation 13(a) to (f).

**19.5** Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant's basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which amount c exceeds amount d.

(2) if amount c exceeds amount d by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.

(3) amount c is the basic amount that applies as a result of the increase.

(4) amount d is the basic amount that applied immediately before the increase.

## **20. Sums disregarded from applicant's earnings**

There will however be an additional maximum £10 earnings disregard for families engaged in remunerative work and where at least one child is under five years of age (there will only be one additional disregard under this criteria per household – not for each child). this only applies to working age applicants under the Reduction Scheme.

**20.1.** Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to:

(a) £25 in the case of a lone parent:

(b) £20 for applicants under the prescribed scheme, and any applicants outlined below

**20.2** in a case where an applicant is a lone parent, £25 of earnings.

**20.3** (1) in a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

**20.4** this paragraph applies to employment:

(a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004**(b)** or a scheme to which section 4 of that act applies:

(ab) as a part-time fire-fighter employed by a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.

(b) a part-time fire-fighter employed by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005:

(c) as an auxiliary coastguard in respect of coast rescue activities:

(d) in the manning or launching of a lifeboat if the employment is part-time:

(e) as a member of any territorial or reserve force prescribed in part i of schedule 6 to the Social Security (contributions) Regulations 2001**(d)**.



- 20.5** (3) if:
- (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1): and
  - (b) either of them has, or both of them have, other earnings, so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.
- 20.6** (1) if the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.
- 20.7** (2) where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.
- 20.8** (3) in this paragraph the applicant or his partner is a carer if paragraph 9 of part 3 of schedule 2 (amount applicable for carers) is satisfied in respect of him.
- 20.9** (1) £20 is disregarded if the applicant or, if he has a partner, his partner—
- (a) is in receipt of:
    - (i) long-term Incapacity Benefit under section 30a of the Social Security Contributions and Benefits Act :
    - (ii) Severe Disablement Allowance under section 68 of that act:
    - (iii) Attendance Allowance under sections 64 to 70 of that act:
    - (iv) Disability Living Allowance:
    - (v) Personal Independence Payment:
    - (vi) An AFIP
    - (vii) any mobility supplement under article 20 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983

(a) and see also paragraph 17 of schedule 1.

(b) 2004 c. 21: amendments made to sections 2 and 4 are not relevant to these regulations. (c) 2005 asp 5.

(d) s.i. 2001/1004.

(viii) the disability element or the severe disability element of Working Tax Credit under schedule 2 to the Working Tax Credit (entitlement and maximum rate) Regulations 2002(b): or

(ix) main phase Employment and Support Allowance: or

(b) is or are registered as blind in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948(c), or as severely sight impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight impaired adults) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a Council constituted under section 2 of the local government (Scotland) Act 1994(d): or

(c) is, or is treated as, incapable of work in accordance with the provisions of, and Regulations made under, part 12a of the Social Security Contributions and Benefits Act (e) (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than:

(i) in the case of an applicant who is terminally ill within the meaning of section 30b(4) of the Social Security Contributions and Benefits Act (f), 196 days:

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

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

(i) the assessment phase as defined in section 24(2) of the Welfare Reform Act 2007 has ended: or

(ii) regulation 7 of the Employment and Support Allowance regulations 2008(g) or regulation 7 of the Employment and Support Allowance regulations 2013 (circumstances where the condition that the assessment phase has ended before entitlement to the support component arising does not apply) applies.

**20.10** (2) subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for State Pension Credit, had an award of Housing Benefit or Council Tax benefit or was in receipt of a reduction under an authority's scheme (including under another authority's scheme) and:

(a) £20 was disregarded in respect of earnings taken into account in that award: and

(b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.

a) s.i. 1983/686.  
b) s.i. 2002/2005.

(c) 1948 c. 29. subsection (1) was amended by section 195 of, and paragraph 2 of schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11 of schedule 13 and paragraph 1 of schedule 14 to, the Children Act 1989 (c. 41). other amendments have been made to this section but they are not relevant to these Regulations.

(d) 1994 c. 39: section 2 was amended by paragraph 232 of schedule 22 to the Environment Act 1995 (c. 39).

(e) part 12a was inserted by section 5 of the Social Security (incapacity for work) Act 1994 (c. 18) and amended by the Welfare Reform and Pensions Act 1999 (c. 30). it was repealed by sections 28 and 67 of, and paragraph 9 of schedule 3 and schedule 8 to, the Welfare Reform Act 2007 (c. 5) but those provisions are not yet in force.

(f) section 30b(4) was inserted by section 2 of the Social Security (incapacity for work) Act 1994 and amended by section 91 of, and paragraphs 3 and 4 of schedule 9 to, the Welfare Reform Act 2012, but those amendments are not yet in force. it has also been repealed by paragraph 9 of schedule 3 to the Welfare Reform Act 2007 but those provisions are not yet in force.

(g) s.i. 2008/794: regulation 7 has been amended by s.i. 2008/3051, s.i. 2010/840, s.i. 2012/874 and s.i. 2012/919.

**20.11** (3) the disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's:

(a) entitlement to Housing Benefit: or

(b) receipt of a reduction under an authority's (including under another authority's) scheme: or

(c) employment, following the first day in respect of which that benefit is awarded or the reduction given under that scheme.

(4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.

**20.12** (1) where:

(a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies:

(b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6): and

(c) paragraph 13 of schedule 1 does not apply, the amount specified in sub-paragraph (7) ('the specified amount').

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

**20.14** (3) notwithstanding paragraph 11 of schedule 1 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ('a') it shall not apply to the other member of that couple ('b') except to the extent provided in sub-paragraph (4).

**20.15** (4) where a's earnings are less than the specified amount, there must also be disregarded so much of b's earnings as would not when aggregated with a's

earnings exceed the specified amount: but the amount of b's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that b is also undertaking exempt work.

**20.16** (5) this sub-paragraph applies to a person who is:

(a) in receipt of a Contributory Employment and Support Allowance:

(b) in receipt of Incapacity Benefit:

(c) in receipt of Severe Disablement Allowance:

(d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8b of the Social Security (credits) Regulations 1975(a).

**20.17** (6) 'exempt work' means work of the kind described in:

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008 or regulation 39(1)(a), (b) or (c) of the Employment and Support Allowance Regulations 2013 or (as the case may be)

(b) regulation 17(2), (3) or (4) of the Social Security (incapacity for work) (general) Regulations 1995, and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

**20.18** (7) the specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

(a) s.i. 1975/556: regulation 8b was inserted by s.i. 1996/2367. it has been amended by s.i. 2000/3120, s.i. 2003/521, s.i. 2008/1534, s.i. 2010/385 and s.i. 2012/913.

**20.19** Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of schedule 5 to these Regulations had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregarded there under.

**20.20** Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this schedule:

(a) £5 must be disregarded if an applicant who has no partner has earnings:

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

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

**20.22** (1) in a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this schedule must be increased by £17.10.

**20.23** (2) the conditions of this sub-paragraph are that:

(a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (entitlement and maximum rate) Regulations 2002 applies: or

(b) the applicant:

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

(ii) if he is a member of a couple:

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

(bb) his applicable amount includes a family premium under paragraph 3 of schedule 2: or

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

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

**20.24** (3) the following are the amounts referred to in sub-paragraph (1):

(a) any amount disregarded under this schedule:

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

(c) £17.10.

**20.25** (4) the provisions of regulation 10 (remunerative work) are to apply in determining whether or not a person works for on average not fewer than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation was a reference to 30 hours.

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

## **21. Amounts to be disregarded in the calculation of income other than earnings (local Reduction Scheme for working age applicants)**

**21.1.** Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the work for your benefit pilot scheme.

**21.2** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the mandatory work activity scheme.

**21.3.** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the employment, skills and enterprise scheme.

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

(2) any payment in respect of any expenses incurred or to be incurred by a applicant who is:

(a) engaged by a charitable or voluntary organisation, or

(b) volunteer, if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under the schemes treatment of notional income.

**21.4.** Any payment in respect of expenses arising out of the applicant participating as a service user group.

**21.5** 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.

**21.6** Where a applicant is on Income Support, an Income-Based Jobseeker's Allowance or an Income-Related Employment and Support Allowance the whole of his income.

**21.7** Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an Income-Based Jobseeker's allowance, the whole of the applicant's income.

**21.8** Where the applicant, or the person who was the partner of the applicant on 31 March 2003, was entitled on that date to Income Support or an Income-Based Jobseeker's Allowance but ceased to be so entitled on or before 5 April 2003 by virtue only of regulation 13 of the Housing Benefit (general) amendment (no. 3) Regulations 1999(a) as in force at that date, the whole of his income.

**21.9** Any Disability Living Allowance or Personal Independence Payments

**21.10** Any concessionary payment made to compensate for the non-payment of:

(a) any payment specified in paragraph 7 or 10:

(b) Income Support:

(c) an Income-Based Jobseeker's allowance

(d) an Income-Related Employment and Support Allowance.

**21.11** Any mobility supplement under article 20 of the Naval, Military and Air Forces etc. (disablement and death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25a of the personal injuries (civilians) scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

**21.12.** Any Attendance Allowance.

**21.13.** Any payment to the applicant as holder of the victoria cross or of the george cross or any analogous payment.

**21.14** (1) any payment:

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

(i) Regulations made under section 518 of the Education Act 1996 (payment of school expenses: grant of scholarships etc):

(ii) Regulations made under section 49 or 73(f) of the education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities):

(iii) directions made under section 73za of the Education (Scotland) Act 1980 and paid under section 12(2) of the further and higher education (Scotland) Act 1992:

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

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

(ii) Regulations made under section 181 of that act.: or

(d) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.



**21.15** (2) any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to:

(a) Regulations made under section 518 of the Education Act 1996:

(b) Regulations made under section 49 of the Education (Scotland) Act 1980: or

(c) directions made under section 73za of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**21.16.** Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (teacher student loans) (repayment etc) Regulations 2002.

**21.17** (1) any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment:

(a) made as a substitute for Income Support, a Jobseeker's allowance, incapacity benefit, Severe Disablement Allowance or an employment and support allowance:

(b) of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990: or

(c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a career development loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

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

**21.19** (1) subject to sub-paragraph (2), any of the following payments:

- (a) a charitable payment:
- (b) a voluntary payment:
- (c) a payment (not falling within 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 applicant:
- (d) a payment under an annuity purchased:
  - (i) pursuant to any agreement or court order to make payments to the applicant: or
  - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant: or (e) a payment (not falling within sub-paragraphs (a) to (d) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

**21.20** (2) sub-paragraph (1) shall not apply to a payment which is made or due to be made by:

- (a) a former partner of the applicant, or a former partner of any member of the applicant's family: or
- (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

**21.21.** Subject to paragraph 35, £10 of any of the following, namely:

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10):
- (b) a war widow's pension or War widower's pension:
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of her majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the crown:

- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (compensation scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10:
- (f) 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:
- (g) 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:
- (h) pension paid to victims of national socialist persecution under any special provision made by the law of the federal republic of Germany, or any part of it, or of the republic of Austria.

**21.22.** subject to paragraph 35, £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(a).

**21.23** (1) any income derived from capital to which the applicant is or is treated under this scheme as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under this scheme.

**21.24** (2) income derived from capital disregarded under this scheme but only to the extent of:

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued: or
- (b) any Council Tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

**21.25** (3) the definition of 'water charges' in this scheme 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'.

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

- (a) under, or pursuant to Regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998, that student's award:
- (b) under Regulations made in exercise of the powers conferred by section 49 of the education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under Regulations made in exercise of the powers conferred by section 73 of that act of 1980, any payment to that student under that section: or
- (c) the student's student loan, an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

**21.27** (1) where the applicant is the parent of a student aged under 25 in advanced education who either:

- (a) is not in receipt of any award, grant or student loan in respect of that education: or
- (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the teaching and higher Education Act 1998, or Regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that act of 1980, and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 19, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

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

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

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

**21.30** Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 23 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family:

(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount: or

(b) where the aggregate of any such payments is £20 or more per week, £20.

**21.31** (1) where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to

(a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent. of such payments:

b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.

**21.32** (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.

**21.33** (1) any income in kind, except where regulation 30(11)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.

**21.34** (2) the reference in sub-paragraph (1) to 'income in kind' does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

- 21.35** 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.
- 21.36** (1) any payment made to the applicant in respect of a person who is a member of his family:
- (a) pursuant to Regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish ministers under section 51a of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the adoption and children (Scotland) Act 2007 adoption allowances schemes):
- 21.37.** A war disablement or war widows pension as defined in the Housing Benefit and Council Tax benefit (war pension disregards) Regulations 2007 shall be disregarded in full.

## **22. Capital to be disregarded**

- 22.1** Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
- 22.2** Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
- 22.3** Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

**22.4** Any premises occupied in whole or in part:

(a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for State Pension Credit or is incapacitated:

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

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

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

**22.7** Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

(a) s.i. 1999/2734: regulation 13 was revoked by s.i. 2006/217. (b) and see also paragraph 17 of schedule 1.

**22.8** All personal possessions.

**22.9** The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.

**22.10** The assets of any business owned in whole or in part by the applicant if:

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement: but

- (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or reengaged, in that business, for a period of 26 weeks from the date on which the application for a reduction under an authority's scheme is made or, if it is unreasonable to expect him to become engaged or reengaged 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.

**22.11** The surrender value of any policy of life insurance.

**22.12.** The value of any funeral plan contract: and for this purpose, 'funeral plan contract' means a contract under which:

- (a) the applicant makes one or more payments to another person ('the provider');
- (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death: and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.

**22.13** Where an ex-gratia payment has been made by the Secretary of State on or after 1 February 2001 in consequence of the imprisonment or internment of:

- (a) the applicant:
- (b) the applicant's partner:
- (c) the applicant's deceased spouse or deceased civil partner: or
- (d) the applicant's partner's deceased spouse or deceased civil partner, by the Japanese during the second world war, an amount equal to that payment.

**22.14** (1) subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is:

- (a) a diagnosed person:
- (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death: or



(c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

**22.15** (2) where a trust payment is made to:

(a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph is to apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies:

(b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date.

**22.16** (3) subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is

(a) the diagnosed person:

(b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death: or

(c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

**22.17** (4) where a payment such as referred to in sub-paragraph (3) is made to:

(a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ends on the date on which that person dies:

(b) a person referred to in sub-paragraph (3)(c), that sub-paragraph is to apply for the period beginning on the date on which the payment is made and ending two years after that date.

**22.18** (5) in this paragraph, a reference to a person:

(a) being the diagnosed person's partner:

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

**22.19** (6) in this paragraph:

'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant creutzfeldt-jakob disease: 'relevant trust' means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant creutzfeldt-jakob disease for the benefit of persons eligible for payments in accordance with its provisions: 'trust payment' means a payment under a relevant trust.

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

- (a) was a slave labourer or a forced labourer:
- (b) had suffered property loss or had suffered personal injury: or
- (c) was a parent of a child who had died, during the second world war.

**22.21** (1) any payment made under or by:

- (a) the MacFarlane trust, the MacFarlane (special payments) trust, the macfarlane (special payments) (no 2) trust, the fund, the eileen trust, MFET limited, the Skipton fund, the caxton foundation, or the London bombings relief charitable fund, the Windrush Compensation Scheme, the National Emergencies Trust, the Victims of Overseas Terrorism Compensation Scheme or the London bombings relief charitable fund (collectively referred to in this paragraph as 'the trusts'):or
- (b) the Independent Living Fund (2006).

**22.21A** (1A) Any Grenfell Tower support payment

**22.21B** (1B) Any payment made by the Child Migrants Trust (registered charity number 1171479) under the scheme for former British child migrants.

**22.21C** (1C) Any historical child abuse payment

**22.21D** (1D) Any Windrush Payment

**22.21E** (1E) Any Post Office compensation payment

**22.21F** (1F) Any vaccine damage payment.

**22.21G** (1G) Any payment out of the estate of a person, which derives from a payment to meet the recommendation of the Infected Blood Inquiry in its interim report published on 29th July 2022 made under or by the Scottish Infected Blood Support Scheme or an approved blood support scheme to the estate of the person, where the payment is made to the person's son, daughter, step-son or step-daughter.

**22.22** (2) any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the trusts from a Grenfell Tower support payment, a historical child abuse payment, a Windrush payment, a Post Office Compensation Payment or a Vaccine Damage Payment and which is made to or for the benefit of that person's partner or former partner:

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

(b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death.

**22.23** (3) any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the trusts or from a Grenfell Tower support payment, a historical child abuse payment, a Windrush payment, a Post Office Compensation Payment or a Vaccine Damage Payment and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.

**22.24** (4) sub-paragraph (3) does not apply if:

(a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or

(b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

**22.25** (5) any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the trusts or from a Grenfell Tower support payment, a historical child abuse payment, a Windrush payment, a Post Office Compensation Payment or a Vaccine Damage Payment, where:

(a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household:  
and

(b) the payment is made either:

(i) to that person's parent or step-parent: or

(ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent, but only for a period from the date of the payment until the end of two years from that person's death.

**22.26** (6) any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the trusts or from a Grenfell Tower support payment, a historical child abuse payment, a Windrush payment, a Post Office Compensation Payment or a Vaccine Damage Payment, where:

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

(b) the payment is made either

(i) to that person's parent or step-parent: or

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

**22.27** (7) in the case of a person to whom or for whose benefit a payment

referred to in this paragraph is made, any capital resource which derives from -

(a) any payment of income or capital made under or deriving from any of the trusts or

(b) a Grenfell Tower Support Payment, a historical child abuse payment, a Windrush payment, a Post Office Compensation Payment or a Vaccine Damage Payment

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

**22.28** (2) where the whole or part of the payment is administered:

(a) by the high court or the county court under rule 21.11(1) of the civil procedure rules 1998, or the court of protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court:

(b) in accordance with an order made under rule 36.14 of the ordinary cause rules 1993 or under rule 128 of those rules:  
or

(c) in accordance with the terms of a trust established for the benefit of the applicant or his partner, the whole of the amount so administered.

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

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

**22.31** So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of:

(a) purchasing premises which the applicant intends to occupy as his home: or

(b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

**22.32** (1) subject to paragraph 22 any amount paid

- (a) by way of arrears of benefit:
- (b) by way of compensation for the late payment of benefit:
- (c) in lieu of the payment of benefit:
- (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph being an amount to which that paragraph does not apply:
- (e) by a local authority out of funds provided under either section 93 of the local government Act 2000(a) under a scheme known as 'supporting people' or section 91 of the housing (Scotland) Act 2001(b).
- (f) by way of occasional assistance including arrears and payments in lieu of occasional assistance (and in this paragraph "occasional assistance" has the same meaning as in paragraph 16 of Schedule 1
- (g) to rectify, or compensate for, an error made by an officer of the Department for Work and Pensions which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the applicant's entitlement to contributory employment and support allowance, being an amount to which paragraph 22(1A) does not apply.

(2) in sub-paragraph (1), 'benefit' means:

- (a) Attendance Allowance under section 64 of the Social Security Contributions and Benefits Act :
- (b) Disability Living Allowance:
- (c) Personal Independence Payment
- (d) an Armed Forces Independence Payment :
- (e) Income Support:
- (f) Income-Based Jobseeker's allowance:
- (g) State Pension Credit:
- (h) Housing Benefit:

- (i) Council Tax benefit:
- (j) Child Tax Credit:
- (k) an increase of a disablement pension under section 104 of the Social Security Contributions and Benefits Act (increase where constant attendance is needed), and any further increase of such a pension under section 105 of that act (increase for exceptionally severe disablement):
- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension:
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the discretionary financial assistance Regulations 2001(c).
- (n) Working Tax Credit:
- (o) Income-Related Employment and Support Allowance.
  - (p) Social fund payments under Part 8 of the SSCBA
  - (q) Universal credit
  - (r) Maternity allowance under section 35 of the SSCBA (state maternity allowance for employed or self-employed earner)
  - (s) Early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018;
  - (t) Funeral expense assistance given in accordance with section 34 of that act
  - (u) any Scottish child payment assistance given in accordance with section 79 of that Act
  - (v) any assistance given in accordance with the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019
  - (w) short-term assistance given in accordance with regulations under section 36 of the Social Security (Scotland) Act 2018;

(x) winter heating assistance given in accordance with regulations under section 30 of that Act or

(y) bereavement support payment under section 30 of the Pensions Act 2014

(3) In sub-paragraph (1) “contributory employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance

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

(1A) Subject to paragraph (3), any payment of £5,000 or more received by the applicant in full on or after the day on which the applicant became entitled to a reduction under an authority’s scheme which has been made to rectify, or compensate for, an error made by an officer of the Department for Work and Pensions which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the applicant’s entitlement to contributory employment and support allowance.

(1B) In sub-paragraph (1A) “contributory employment and support allowance” has the meaning in paragraph 21(3).

(a) 2000 c. 22: changes made to this section are not relevant to these Regulations. (b) 2001 asp 10.  
(c) s.i. 2001/1167.

**22.34** (2) subject to sub-paragraph (3), the total amount of any payments disregarded under:

(a) paragraph 7(2) of schedule 10 to the Income Support (general) Regulations 1987(a):

(b) paragraph 12(2) of schedule 8 to the Jobseeker’s Allowance Regulations 1996:

(c) paragraph 9(2) of schedule 5 to the Council Tax benefit Regulations 2006(b):

(d) paragraph 20a of schedule 5 to the State Pension Credit



Regulations 2002(c),

(e) paragraph 11(2) of schedule 9 to the Employment and Support Allowance Regulations 2008, where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(f) Paragraph 18 of Schedule 10 to Universal Credit Regulations 2013

(g) regulations 10A to 10C of the Universal Credit (Transitional Provisions) Regulations 2014

**22.35** (3) any disregard which applies under sub-paragraph (1), (1A) or (2) is to have effect until the award comes to an end.

**22.36** (4) in this paragraph:

‘the award’, except in sub-paragraph (2), means:

(a) the award of a reduction under an authority’s scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received: and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant:

(i) is the person who received the relevant sum:

(ii) is the partner of that person: or

(iii) was the partner of that person at the date of his death:

‘official error’ means:

(a) where the error relates to Housing Benefit or Council Tax benefit (in respect of any period before 1 April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and the Council Tax benefit (decisions and appeals) Regulations 2001: and

(b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and child support (decisions and appeals) Regulations 1999: 'the relevant date' means the date on which an application for a reduction under the authority's scheme was made:

'relevant benefit' means any benefit specified in paragraph 21(2): and

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

**22.36A.** Any payment of a widowed parent's allowance made pursuant to section 39A of the SSCBA (widowed parent's allowance)—

(a) to the survivor of a cohabiting partnership (within the meaning in section 39A(7) of the SSCBA) who is entitled to a widowed parent's allowance for a period before 9th February 2023<sup>(11)</sup>, and

(b) in respect of any period of time during the period ending with the day before the survivor makes the claim for a widowed parent's allowance,

but only for a period of 52 weeks beginning with the date of receipt of the payment or 1st April 2024, whichever is later

**22.36B.**—(1) A payment of bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017 (rate of bereavement support payment)<sup>(12)</sup>, but only for the period of 52 weeks from the date of receipt of the payment.

(2) Where bereavement support payment under section 30 of the Pensions Act 2014 is paid to the survivor of a cohabiting partnership (within the meaning of section 30(6B) of that Act) in respect of a death occurring before 9th February 2023, any amount of that payment which is—

(a) in respect of the rate set out in regulation 3(1) of the Bereavement Support Payment Regulations 2017, and

(b) paid as a lump sum for more than one monthly recurrence of the day of the month on which their cohabiting partner died,

but only for a period of 52 weeks beginning with the date of receipt of the payment or 1st April 2024, whichever is later

- 22.37** Where a capital asset is held in a currency other than sterling, any banking charge or commission payable in converting that capital into sterling.
- 22.38** The value of the right to receive income from an occupational pension scheme or a personal pension scheme.
- 22.39** Any arrears of supplementary pension which is disregarded under paragraph 4 of schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that schedule.
- 22.40** The dwelling occupied as the home: but only one dwelling may be disregarded under this paragraph.

(a) s.  
i. 19  
87/1  
967.

(b)  
s.i.  
200  
6/25

(c) s.i. 2002/1792: paragraph 20a was inserted by regulation 2 of, and paragraph 12 of the schedule to, s.i. 2002/3197 and substituted by Regulations 2 and 12 of s.i. 2003/2274. It has since been amended by s.i. 2008/1554 and s.i. 2008/3157.

- 22.41** (1) subject to sub-paragraph (2) where an applicant falls within class C (alternativemaximum Council Tax Reduction), the whole of his capital.
- 22.42** (2) sub-paragraph (1) does not apply, where an applicant falls within class B (income greater than applicable amount) and class C.
- 22.43** where a person elects to be entitled to a lump sum under schedule 5 or 5a to the Social Security Contributions and Benefits Act or under schedule 1 to the Social Security (graduated retirement benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to:
- (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum:  
or
  - (b) the amount of that lump sum, but only for so long as that person does not change that election in favour of an increase of pension or benefit.
- 22.43A** where a person chooses a lump sum under section 8(2) of the Pensions Act 2014 or in accordance with Regulations made under section 10 of that Act which include

provision corresponding or similar to section 8(2) of that act, or fails to make a choice, and a lump sum payment has been made equal to :

(a) except where sub paragraph (b) applies, the amount of any payment or payments made on account of that lump sum, or

(b) the amount of that lump sum but only for so long as that person does not change that election in favour of an increase of pension.

**22.44.** any payments made:

(a) by virtue of Regulations made under section 57 of the Health and Social Care Act 2001 (direct payments):

(b) under section 12b of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services):

(c) by virtue of Regulations made under sections 12a to 12c of the National Health Service Act 2006 (direct payments for health care):

(d) by virtue of Regulations made under article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972(a) (general social welfare):

(e) by virtue of Regulations made under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002(b) (direct payments)

(f) by virtue of regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)

(g) under sections 31 to 33 of the Care Act 2014 (direct payments)

**22.44A** Any payments made under the Age-Related Payments Regulations 2013.

**22.44B** Any payments to an applicant made under section 49 of the Children and Families Act 2014(c) (personal budgets and direct payments).

**22.44C** (1) Any payment made by a local authority in accordance with section 261 of the Children (Scotland) Act 1995 (duty to provide continuing care)

- (3) Any payment or part of a payment made by a local authority in accordance with that section to a person (“A”) which A passes on to the applicant where A -
- (a) was formerly in the applicant’s care;
  - (b) is aged 16 or over; and
  - (c) continues to live with the applicant

**22.44 D** Any lump sum payment made in accordance with regulation 24 of the Victims’ Payments Regulations 2020

**22.44E** Any sum paid by means of assistance in accordance with the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019.

**22.44F** Any sum paid by means of winter heating assistance in accordance with regulations under section 30 of the Social Security (Scotland) Act 2018

(a) s.i.  
1972/1265  
(n.i. 14). (b)  
2002 c. 6

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

- 23.1** The value of the right to receive any income under a life interest or from a life rent.
- 23.2** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
- 23.3** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 23.4** Where property is held under a trust, other than:
- (a) a charitable trust within the meaning of the Charities Act 1993:  
or
  - (b) a trust set up with any payment to which paragraph 16 of this schedule applies, and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant’s partner, or both, that property.

# **Schedule 2**

# **Pension age**

## Schedule 2 (for pension age)

### 1. Applicable amounts

This refers to schedules, where the personal allowances and premiums are prescribed by the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012

#### 1.1 (1) the applicable amount for a pensioner(g) for a week is the aggregate of such of the following amounts as apply in his case:

- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of schedule 2 to these Regulations:
- (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of up to two individuals who are either children or young persons and who are members of his family:
- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that schedule (family premium):
- (d) the amount of any premiums which may be applicable to him, determined in accordance with parts 3 and 4 of that schedule (premiums).

(a) 1983 c. 20.

(b) 2003 asp 13.

(c) 1995 c. 46

(d) s.i. 1986/595 (n.i.

4). (e) 1952 c. 52.

(f) 1989 c. 45.

(g) including pensioners who are in polygamous marriages by virtue of regulation 5.

#### 1.2 (2) in schedule 2:

‘additional spouse’ means a spouse of either party to the marriage who is additional to the other party to the marriage:

‘patient’ means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the social security (hospital in-patients) Regulations 2005(a).

**(1A)** For the purposes of sub-paragraph (1)(b) as it applies apart from sub-paragraph (1C), where the family includes more than two individuals who are either children or young persons and under paragraph 2 of that Schedule a different amount applies to different individuals, the two amounts to be included in the applicable amount shall be those that result in the greatest possible total amount.

**(1B)** Sub-paragraph (1C) applies where—

- (a) (whether or not as part of a tax credit couple as defined in section 3(5A) of the Tax Credits Act 2002) the applicant has an award of child tax credit (whether or not any amount is payable by way of such credit) in respect of a child or young person who is a member of his family; and
- (b) the total amount to be included in the applicable amount under sub-paragraph (1)(b) as substituted by sub-paragraph (1C) would be higher than the total amount that would be included under paragraph (1)(b) apart from sub-paragraph (1C).

**(1C)** Where this paragraph applies, for sub-paragraph (1)(b) substitute—

- (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of any child or young person who is a member of his family and in respect of whom the individual element of child tax credit has been included in the determination of the maximum rate of that credit.



## **2. Personal allowances**

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

## **3. Person, couple or polygamous marriage**

### **3.1 (1) single applicant or lone parent:**

(a) Single applicant or lone parent who has attained pensionable age before 1<sup>st</sup> April 2021: £235.20:

### **3.2 (2) couple:**

Couple and one or both members have attained pensionable age before 1<sup>st</sup> April 2021 : £352.00

### **3.3 (3) if the applicant is a member of a polygamous marriage and one or more members of the marriage has attained the pensionable age before 1<sup>st</sup> April 2021:**

(a) for the applicant and the other party to the marriage:(a) £352.00:

(b) for each additional spouse who is a member of the same household as the applicant:(b) £116.80

### **3.4 (4) Single applicant or lone parent who has attained pensionable age on or after 1<sup>st</sup> April 2021 : £218.15**

### **3.5 (5) Couple where both members have attained pensionable age on or after 1<sup>st</sup> April 2021 : £332.95**

### **3.6 (6) If the applicant is a member of a polygamous marriage and all members of the marriage have attained pensionable age on or after 1<sup>st</sup> April 2021:**

(a) for the applicant and the other party to the marriage: £332.95

(b) for each additional spouse who is a member of the same household as the applicant: £114.80

## **4. Child or young person amounts**

**4.1** (1) the amount specified below in respect of each person or couple specified is the amount specified for the purposes of paragraph 6(1)(b) of schedule 1.

Child or young person

Person in respect of the period:

(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday:(a) £83.24:

(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday:(b) £83.24.

(2) 'the first Monday in September' means the Monday which first occurs in the month of September in any year.

**4.2** The amounts specified below in respect of each person specified shall, for the relevant period specified, be the amounts for the purpose of this scheme

This will be up rated in accordance on an annual basis in accordance with the housing benefit Regulations 2006.

## **Premiums**

### **5. Family premium**

**5.1** The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a Family of which at least one member is a child or young person

(a) is £19.15 in respect of a reduction week which begins in the period beginning with 1st April 2016 and ending with 30th April 2016 unless continually entitled since 06 April 1998 in which case protected rate of £22.20;

(b) is nil in respect of a reduction week which begins after 1st May 2016.

**5.2** (2) where the applicant is a lone parent to whom sub - paragraph (3) of schedule 1 of the Council Tax benefit Regulations 2006 applies that amount shall be £22.20.

## **6. Other premiums**

Including, severe disability premium, disabled child premium and carer premium

**6.1** The premiums specified in this scheme are for the purposes of paragraph 6(1)(d) of schedule 1, applicable to an applicant who satisfies the condition specified in this part in respect of that premium.

**6.2** Subject to sub-paragraph (2), for the purposes of this part, once a premium is applicable to an applicant under this part, a person is to 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(a) applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit: and

(b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973(b), or by skills development Scotland, scottish enterprise or highland and islands enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(c) or for any period during which he is in receipt of a training allowance.

(2) for the purposes of the carer premium under paragraph 9, a person is to be treated as being in receipt of a 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 :

(a) Attendance Allowance;

(b) the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act (d),

(c) the care component of child disability payment at the highest or middle rate in accordance with regulation 11(5) of the DACYP Regulations,

(d) the daily living component of Personal Independence Payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012(e)

(e) the daily living component of adult disability payment at the standard of

enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or  
(f) an Armed Forces Independence Payment .

(a) s.i. 1979/597.

(b) 1973 c. 50: section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and subsequently amended by section 29 of, and part 1 of schedule 7 to, the Employment Act 1989 (c. 38) and, in relation to Scotland only, section 47 of the trade union reform and Employment Rights Act 1993 (c. 19).

(c) 1990 c. 35: section 2 was amended by section 47 of the trade union reform and Employment Rights Act 1993 (c. 19): article 4 of, and paragraph 100 of schedule 2 to, s.i. 1999/1820: and paragraph 20 of schedule 26 to the equality Act 2010 (c. 15).

(d) 1992 c. 4: section 72 has been repealed by section 90 of the Welfare Reform Act 2012 (c. 5) but that provision is not yet in force.

(e) 2012 (c. 5).

## 7. Severe disability premium

7.1 (1) the condition is that the applicant is a severely disabled person.

7.2 (2) for the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if:

(a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)

(i) he is in receipt of

(aa) Attendance Allowance,

(bb) the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act ,

(cc) the daily living component of Personal Independence Payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012,

(dd) the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or

(ee) an Armed Forces Independence Payment : and

(ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing: and

(iii) no person is entitled to, and in receipt of, a Carer's Allowance in respect of caring for him:

(b) in the case of an applicant who has a partner:

(i) the applicant is in receipt of

(aa) Attendance Allowance,

(bb) the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act ,

(cc) the daily living component of Personal Independence Payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012,

(dd) the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or

(ee) an Armed Forces Independence Payment

(ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance: and

(iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and either a person is entitled to and in receipt of a Carer's Allowance in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.

**7.3** (3) where an applicant has a partner who does not satisfy the condition in sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.

**7.4** (4) for the purposes of sub-paragraph (3), a person is blind or severely sight impaired if he is registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948(a) (welfare services), or is registered as severely sight impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight impaired adults) 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 (b).

**7.5** (5) for the purposes of sub-paragraph (4), a person who has ceased to be registered as blind or severely sight impaired on regaining his eyesight is nevertheless to be treated as such 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.

**7.6** (6) for the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of:

(a) a person receiving

(i) Attendance Allowance,

(ii) the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act ,

(iii) the daily living component of Personal Independence Payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012,

(iv) the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations; or

(v) an Armed Forces Independence Payment, or

(b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).

**7.7** (7) for the purposes of sub-paragraph (2)(b) a person is to be treated:

(a) as being in receipt of Attendance Allowance, or the care component of Disability Living Allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Social Security Contributions and Benefits Act , if he would, but for his being a patient for a period exceeding 28 days, be so in receipt:

(a) 1948 c. 29. subsection (1) was amended by section 195 of, and paragraph 2 of schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11 of schedule 13 and paragraph 1 of schedule 14 to, the Children Act 1989 (c. 41). other amendments have been made to this section but they are not relevant to these Regulations.  
(b) 1994 c. 39: section 2 was amended by paragraph 232 of schedule 22 to the environment Act 1995 (c. 39).

(b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance with part 4 of the welfare reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so entitled and in receipt notwithstanding section 86 of that act and Regulations made there under:

(ba) as being in receipt of the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the DAWAP Regulations, if they would, but for payment ceasing by virtue of regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of those Regulations, be so in receipt.

(c) as being in receipt of an Armed Forces Independence Payment , if he would, but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution:

(d) 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.

**7.8** (8) for the purposes of sub-paragraph (2)(a)(iii) and (2)(b):

(a) no account is to be taken of an award of Carer's Allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid: and

(b) a reference to a person being in receipt of a Carer's Allowance is to include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6b or 7 of the Social Security fraud Act 2001 (loss of benefit)(a).

(a) 2001 c. 11: section 6b was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of schedule 2 and part 1 of schedule 7 to, the Welfare Reform Act 2009 (c. 24): sections 31, 113, 118, 119, 121 and 147 of, and paragraphs 56 and 58 of schedule 2, paragraphs 15 and 16 of schedule 3, parts 1 and 12 of schedule 14, to the Welfare Reform Act 2012 (c. 5) – of which only those made by section 113 (to subsection (1)(b)) are in force. section 7 was amended by section 14 of, and part

3 of schedule 3 to, the State Pension Credit Act 2002 (c. 16): sections 28 and 49 of, and paragraph 23 of schedule 3 to, the Welfare Reform Act 2007 (c. 5): sections 9, 24 and 58 of, and paragraphs 9 and 11 of schedule 2, part 1 of schedule 4 and part 1 of schedule 7 to, the Welfare Reform Act 2009 (c. 24) (of which those made by sections 9, 31 and schedule 7 are not yet in force): article 3 of s.i. 2011/2298: sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of schedule 2, paragraphs 15 and 17 of schedule 3 and part 1 of schedule 14 to, the Welfare Reform Act 2012. (c. 5), none of which are yet in force.



## 8. Enhanced disability premium

### 8.1 (1) the condition is that:

(a) 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 Social Security Contributions and Benefits Act or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that act:

(aa) the care component of child disability payment is payable at the highest rate in accordance with regulation 11(5) of the DACYP Regulations;

(ab) the daily living component of adult disability payment is payable, or has ceased to be payable by virtue of regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the DAWAP Regulations, at the enhanced rate in accordance with regulation 5 of those Regulations.

(b) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of payment in accordance with Regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate under section 78(2) of that act, in respect of a child or young person who is a member of the applicant's family, or

(c) An Armed Forces Independence Payment.

### 8.2 (2) where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to Child Benefit in respect of that person under section 145a of the Social Security Contributions and Benefits Act (**b**) (entitlement after death of child or qualifying young person).

(d) 1992 (c. 4): section 145a was inserted by the Tax Credits Act 2002 (c. 21): subsections (1) and (4) were subsequently amended by section 1 of, and paragraphs 1 and 12 of schedule 1 to, the Child Benefit Act 2005 (c. 6): subsections (2) and (5) were amended, and subsection (6) inserted, by section 254 of, and paragraph 48 of schedule 24 to, the Civil Partnership Act 2004 (c. 33).

## **9. Disabled child premium**

**9.1** The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household:

(a) is in receipt of Disability Living Allowance or Personal Independence Payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family: or

(aa) is in receipt of child disability payment; or

(b) is blind within the meaning of paragraph 6(4) of this schedule or treated as blind in accordance with paragraph 6(5): or

(c) is a child or young person in respect of whom section 145a of the Social Security Contributions and Benefits Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to Child Benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death, or

(d) is a young person who is in receipt of adult disability payment or who would, but for the payment ceasing by virtue of regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the DAWAP Regulations be so in receipt, provided that the young person continues to be a member of the family, or

(e) is a young person who is in receipt of an Armed Forces Independence Payment.

## **10. Carer premium**

**10.1** (1) the condition is that the applicant or his partner is, or both of them are, entitled to a Carer's Allowance.

**10.2** (2) where a carer premium has been awarded but:

(a) the person in respect of whose care the Carer's Allowance has been awarded dies: or

(b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a Carer's Allowance, this paragraph shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

**10.3** (3) the relevant date for the purposes of sub-paragraph (2) is:

a) in a case within sub-paragraph (2)(a) the Sunday following the death of the person in respect of whose care the Carer's Allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday):

(b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a Carer's Allowance ceases to be entitled to it.

**10.4** (4) for the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a Carer's Allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

## **11. Persons in receipt of concessionary payments**

**11.1** For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9 of this schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

## **12. Person in receipt of benefit**

**12.1** For the purposes of this part, a person is to be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and is to be so regarded only for any period in respect of which that benefit is paid.

## **13. Amounts of premiums**

### **13.1 Severe disability premium:**

(a) where the applicant satisfies the condition in this scheme (a) £81.50:

(b) where the applicant satisfies the condition in this scheme(b):

(i) in a case where there is someone in receipt of a Carer's Allowance or if he or any partner satisfies that condition only by virtue of this this scheme:

(i) £81.50:

(ii) in a case where there is no-one in receipt of such an allowance.

(ii) £163.00

### **13.2 Enhanced disability premium:**

(a) £32.20 in respect of each child or young person in respect of whom the conditions specified in this scheme are satisfied.

### **13.3 Disabled child premium:**

(a) £80.01 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied

### **13.4 Carer premium:**

(a) £45.60 in respect of each person who satisfies the condition specified in paragraph 9.

## 14. Sums disregarded from applicant's earnings

**14.1** Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to:

(a) £25 in the case of a lone parent:

(b) £20 for applicants under the prescribed scheme, and any applicants outlined below.

**14.2** in a case where an applicant is a lone parent, £25 of earnings.

**14.3** (1) in a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) this paragraph applies to employment:

(a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004**(b)** or a scheme to which section 4 of that act applies:

(ab) as a part-time fire-fighter employed by a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.

(b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the fire (Scotland) Act 2005**(c)**) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that act:

(c) as an auxiliary coastguard in respect of coast rescue activities:

(d) in the manning or launching of a lifeboat if the employment is part-time:

(e) as a member of any territorial or reserve force prescribed in part i of schedule 6 to the Social Security (contributions) Regulations 2001**(d)**.

(3) if:

(a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1): and

(b) either of them has, or both of them have, other earnings, so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.

**14.4** (1) if the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

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

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

**14.5** (1) £20 is disregarded if the applicant or, if he has a partner, his partner—  
b is in receipt of:

(a) long-term Incapacity Benefit under section 30a of the Social Security Contributions and Benefits Act :

(i) Severe Disablement Allowance under section 68 of that act:

(ii) Attendance Allowance under sections 64 to 70 of that act:

(iii) Disability Living Allowance:

(iv) Personal Independence Payment:

(v) An AFIP

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

(a) and see also paragraph 17 of schedule 1.

(b) 2004 c. 21: amendments made to sections 2 and 4 are not relevant to these Regulations.

(c) 2005 asp 5.

(d) s.i. 2001/1004.

(viii) the disability element or the severe disability element of working Tax credit under schedule 2 to the Working Tax Credit (entitlement and maximum rate) Regulations 2002**(b)**: or

(ix) main phase Employment and Support Allowance: or

(b) is or are registered as blind in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948(c), or as severely sight impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight impaired adults) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a Council constituted under section 2 of the local government (Scotland) Act 1994 (d): or

(c) is, or is treated as, incapable of work in accordance with the provisions of, and Regulations made under, part 12a of the Social Security Contributions and Benefits Act (e) (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than:

(i) in the case of an applicant who is terminally ill within the meaning of section 30b(4) of the Social Security Contributions and Benefits Act (f), 196 days:

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

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

(i) the assessment phase as defined in section 24(2) of the Welfare Reform Act 2007 has ended: or

(ii) regulation 7 of the Employment and Support Allowance Regulations 2008(g) or regulation of the Employment and Support Allowance regulations 2013 (circumstances where the condition that the assessment phase has ended before entitlement to the support component arising does not apply) applies.

(2) subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for State Pension Credit, had an award of Housing Benefit or Council Tax benefit or was in receipt of a reduction under an authority's scheme (including under another authority's scheme) and:

(a) £20 was disregarded in respect of earnings taken into account in that award: and

(b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.

(3) the disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—

(a) entitlement to Housing Benefit: or

(b) receipt of a reduction under an authority's (including under another authority's) scheme: or

(c) employment, following the first day in respect of which that benefit is awarded or the reduction given under that scheme.

(4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.

(a) s.i. 1983/686.

(b) s.i. 2002/2005.

(c) 1948 c. 29. subsection (1) was amended by section 195 of, and paragraph 2 of schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11 of schedule 13 and paragraph 1 of schedule 14 to, the Children Act 1989 (c. 41). other amendments have been made to this section but they are not relevant to these regulations.

(d) 1994 c. 39: section 2 was amended by paragraph 232 of schedule 22 to the environment Act 1995 (c. 39).

(e) part 12a was inserted by section 5 of the Social Security (incapacity for work) Act 1994 (c. 18) and amended by the Welfare Reform and Pensions Act 1999 (c. 30). it was repealed by sections 28 and 67 of, and paragraph 9 of schedule 3 and schedule 8 to, the Welfare Reform Act 2007 (c. 5) but those provisions are not yet in force.

(f) section 30b(4) was inserted by section 2 of the Social Security (incapacity for work) Act 1994 and amended by section 91 of, and paragraphs 3 and 4 of schedule 9 to, the Welfare Reform Act 2012, but those amendments are not yet in force. it has also been repealed by paragraph 9 of schedule 3 to the Welfare Reform Act 2007 but those provisions are not yet in force.

(g) s.i. 2008/794: regulation 7 has been amended by s.i. 2008/3051, s.i. 2010/840, s.i. 2012/874 and s.i. 2012/919.

**14.6** (1) where:

(a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies:

(b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6): and

(c) paragraph 13 of schedule 1 does not apply, the amount specified in sub-paragraph (7) ('the specified amount').

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

(3) notwithstanding paragraph 11 of schedule 1 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph

(4) applies to one member of a couple ('a') it shall not apply to the other member of that couple ('b') except to the extent provided in sub-paragraph (4).

(4) where a's earnings are less than the specified amount, there must also be



disregarded so much of b's earnings as would not when aggregated with a's earnings exceed the specified amount: but the amount of b's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that b is also undertaking exempt work.

(5) this sub-paragraph applies to a person who is:

(a) in receipt of a Contributory Employment and Support Allowance:

(b) in receipt of Incapacity Benefit:

(c) in receipt of Severe Disablement Allowance:

(d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8b of the Social Security (credits) Regulations 1975(a).

(6) 'exempt work' means work of the kind described in:

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008 or regulation 39(1)(a), (b) or (c) of the Employment and Support Allowance Regulations 2013 or (as the case may be)

(b) regulation 17(2), (3) or (4) of the Social Security (incapacity for work) (general) Regulations 1995, and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) the specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

(a) s.i. 1975/556: regulation 8b was inserted by s.i. 1996/2367. it has been amended by s.i. 2000/3120, s.i. 2003/521, s.i. 2008/1534, s.i. 2010/385 and s.i. 2012/913.

**14.7** any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of schedule 5 to these Regulations had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard there under.

**14.8.** except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this schedule:

(a) £5 must be disregarded if an applicant who has no partner has

earnings:

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

**14.9.** any earnings, other than earnings referred to in paragraph 17(9)(b) of schedule 1, derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under an authority's scheme.

**14.10** (1) in a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this schedule must be increased by £17.10.

(2) the conditions of this sub-paragraph are that:

(a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (entitlement and maximum rate) Regulations 2002 applies: or

(b) the applicant:

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

(ii) if he is a member of a couple:

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

(bb) his family includes at least one child or young person: or

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

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

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

(a) any amount disregarded under this schedule:

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

(c) £17.10.

(4) the provisions of regulation 10 (remunerative work) are to apply in determining whether or not a person works for on average not fewer than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation was a reference to 30 hours.

**14.11** 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. Amounts to be disregarded in the calculation of income other than earnings**

**15.1** In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following, namely:

(a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3):

(b) a war widow's pension or War widower's pension:

(c) a pension payable to a person as a widow, widower or surviving civil partner under any power of her majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the crown:

(d) a guaranteed income payment and, if the amount of that payment has been adjusted to less than £10 by a pension or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (compensation scheme) Order 2011(**b**), so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10:

(e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs:

(f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above:

(g) a pension paid by a government to victims of National Socialist

persecution

- 15.2** the whole of any amount included in a pension to which paragraph 1 relates in respect of:
- (a) the applicant's need for constant attendance:
  - (b) the applicant's exceptionally severe disablement.
- 15.3** Any mobility supplement under article 20 of the naval, military and air forces etc (disablement and death) service pensions order 2006(c) (including such a supplement by virtue of any other scheme or order) or under article 25a of the personal injuries (civilians) scheme 1983(d) or any payment intended to compensate for the non-payment of such a supplement.
- 15.4** Any supplementary pension under article 23(2) of the naval, military and air forces etc (disablement and death) service pensions order 2006(e) (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for defence to any person who is not a person entitled under that order.
- 15.5** In the case of a pension awarded at the supplementary rate under article 27(3) of the personal injuries (civilians) scheme 1983(f) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of schedule 4 to that scheme(g).
- 15.6** (1) any payment which is:
- (a) made under any of the dispensing instruments to a widow, widower or surviving civil partner of a person:
    - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the crown: and
    - (ii) whose service in such capacity terminated before 31 March 1973: and
  - (b) equal to the amount specified in article 23(2) of the naval, military and air forces etc (disablement and death) service pensions order 2006.

(a) and see also paragraph 17 of schedule

1. (b) s.i. 2011/517.

(c) s.i. 2006/606.

(d) s.i. 1983/686: article 25a was inserted by s.i. 1983/1164 and has since been amended by s.i. 1983/1540, s.i. 1986/628, s.i. 1990/1300, s.i. 1991/708, s.i. 1995/445, s.i. 1997/812 and s.i. 2001/420.

(e) article 23(2) has been amended by s.i. 2009/706/

(f) paragraph (3) was inserted by s.i. 1994/2021. article 27 has otherwise been amended by s.i. 2002/672 and s.i. 2005/3031.

(g) schedule 4 (which specifies the rates of pensions and allowances payable in respect of death) was substituted by s.i. 2012/670.

- (2) in this paragraph 'the dispensing instruments' means the order in Council of 19 December 1881, the royal warrant of 27 October 1884 and the order by

his majesty of 14 January 1922 (exceptional grants of pay, non-effective pay and allowances).

- 15.7** £15 of any widowed parent's allowance to which the applicant is entitled under section 39a of the Social Security Contributions and Benefits Act (a).
- 15.8** £15 of any widowed mother's allowance to which the applicant is entitled under section 37 of the Social Security Contributions and Benefits Act (b).
- 15.9** Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to:
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent. of such payments: or
  - (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.
- 15.10** If the applicant:
- (a) owns the freehold or leasehold interest in any property or is a tenant of any property: and
  - (f) occupies a part of that property: and
  - (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and:
    - (i) the amount paid by that person is less than £20 per week, the whole of that amount: or
    - (ii) the amount paid is £20 or more per week, £20.

**15.11** Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions:

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

(a) section 39a was inserted by section 55(2) of the welfare reform and Pensions Act 1999 (c. 30): it was amended by paragraph 20 of schedule 24 and paragraph 1 of schedule 30 to the Civil Partnership Act 2004 (c. 33), paragraph 3 of schedule 1 to the Child Benefit Act 2005 (c. 6) and section 51 of the Welfare Reform Act 2007 (c. 5)

(b) section 37 was amended by paragraph 15 of schedule 24 and paragraph 1 of schedule 30 to the civil partnership Act, paragraph 3 of schedule 1 to the Child Benefit Act 2005 and section 50 of the Welfare Reform Act 2007.

- (i) where, or insofar as, section 369 of the income and corporation taxes Act 1988(a) (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.

**15.12** (1) any payment, other than a payment to which sub-paragraph (2) applies, made to the applicant by trustees in exercise of a discretion exercisable by them.

(2) this sub-paragraph applies to payments made to the applicant by trustees in exercise of a discretion exercisable by them for the purpose of:

- (a) obtaining food, ordinary clothing or footwear or household fuel:
- (b) the payment of rent, Council Tax or water charges for which that applicant or his partner is liable:
- (c) meeting housing costs of a kind specified in schedule 2 to the state pension credit Regulations 2002**(b)**.

(3) in a case to which sub-paragraph (2) applies, £20 or;

(a) if the payment is less than £20, the whole payment:

(b) if, in the applicant's case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10: or

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

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

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

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

**15.13** Any increase in pension or allowance under part 2 or 3 of the naval, military and air forces etc (disablement and death) service pensions order 2006 paid in respect of a dependent other than the pensioner's partner.

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

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

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

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

(a) 1988 c. 1: section 369 was amended by section 8 of the Finance Act 1993 (c. 34), section 81 of the Finance Act 1994 (c. 9), paragraph 6 of schedule 18 to the Finance Act 1996 (c. 8), paragraph 4 of schedule 4 to the Finance Act 1999 (c. 16), section 83 of the Finance Act 2000 (c. 17) and paragraph 33 of schedule 1 to the corporation Tax Act 2010 (c. 4).  
(b) s.i. 2002/1792.

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

- (a) under, or pursuant to Regulations made under powers conferred by section 22 of the teaching and higher Education Act 1998(a), that student's award:
- (b) under Regulations made in exercise of the powers conferred by section 49 of the education (Scotland) Act 1980(b), 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
- (b) 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.

**15.19** (1) where the applicant is the parent of a student aged under 25 in advanced education who either:

- (a) is not in receipt of any award, grant or student loan in respect of that education: or
- (b) is in receipt of an award bestowed by virtue of the teaching and higher Education Act 1998, or Regulations made there under, or a bursary, scholarship or other allowance under section 49(1) of the education (Scotland) Act 1980, or a payment under section 73 of that act of 1980, and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in subparagraph (2) in respect of each week during the student's term.

(2) for the purposes of sub-paragraph (1), the amount is to be equal to:

- (a) the weekly amount of the payments: or
- (b) £71.70 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub – paragraph (1) (b) whichever is less.



(3) in this paragraph and paragraph 18 a reference to a 'student loan' or a 'grant' is a reference to a student loan or a grant within the meaning of part 11 of the schedule to the default scheme Regulations.

**15.20** (1) Where an applicant's family includes at least one child or young person, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.

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

**15.21** Except in a case which falls under paragraph 10 of schedule 4, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of Working Tax Credit up to £17.10.

**15.22** Where the total value of any capital specified in part 2 (capital disregarded only for the purposes of determining deemed income) of schedule 6 does not exceed £10,000, any income actually derived from such capital.

(a) 1998 c. 30: section 22 has been amended by section 146 of, and paragraph 1 of schedule 11 to, the Learning and Skills Act 2000 (c. 21), section 147 of the Finance Act 2003 (c. 14), paragraph 236 of schedule 6 to the Income Tax (earnings and pensions) Act 2003 (c. 1), sections 42 and 43 of, and paragraph 1 of schedule 7 to, the Higher Education Act 2004 (c. 8), section 257 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) and section 76 of the Education Act 2011 (c. 21).

(b) 1980 c. 44: section 49 was amended by the self-governing schools etc. (Scotland) Act 1989 (c. 39). Other amendments made to section 49 are not relevant to these Regulations.

**15.23** Except in the case of income from capital specified in part 2 of schedule 6 (capital disregards), any actual income from capital.

**15.24** Where the applicant, or the person who was the partner of the applicant on 31 March 2003, was entitled on that date to Income Support or an Income-Based Jobseeker's Allowance but ceased to be so entitled on or before 5 April 2003 by virtue only of regulation 13 of the Housing Benefit (general) amendment (no 3) Regulations 1999(a) as in force at that date, the whole of his income.

**15.25** Any victims' payment under the Victims' Payments Regulations 2020

**15.26** A war disablement or war widows pension as defined in the Housing Benefit and Council Tax benefit (war pension disregards) Regulations 2007 shall be disregarded in full.

## **16. Capital to be disregarded**

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

whole of his interest in those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

**16.8** All personal possessions.

**16.9** The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.

(a) s.i. 1999/2734: regulation 13 was revoked by s.i. 2006/217. (b) and see also paragraph 17 of schedule 1.

**16.10** The assets of any business owned in whole or in part by the applicant if:

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement: but

(b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or reengaged, in that business, for a period of 26 weeks from the date on which the application for a reduction under an authority's scheme is made or, if it is unreasonable to expect him to become engaged or reengaged 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.

**16.11** The surrender value of any policy of life insurance.

**16.12** The value of any funeral plan contract: and for this purpose, 'funeral plan contract' means a contract under which:

(a) the applicant makes one or more payments to another person ('the provider');

(b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death: and

(c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.

**16.13** Where an ex-gratia payment has been made by the Secretary of State on or after 1 February 2001 in consequence of the imprisonment or internment of:

(a) the applicant:

- (b) the applicant's partner:
- (c) the applicant's deceased spouse or deceased civil partner: or
  
- (d) the applicant's partner's deceased spouse or deceased civil partner, by the Japanese during the second world war, an amount equal to that payment.

**16.14** (1) subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is:

- (a) a diagnosed person:
  
- (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death: or
  
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

(2) where a trust payment is made to:

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph is to apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies:
  
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date.

(3) subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is:

- (a) the diagnosed person:
  - i. a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death: or
  - ii. a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.

(4) where a payment such as referred to in sub-paragraph (3) is made to

- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is

made and ends on the date on which that person dies:

- (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph is to apply for the period beginning on the date on which the payment is made and ending two years after that date.

(5) in this paragraph, a reference to a person:

- (a) being the diagnosed person's partner:
- (b) acting in place of the diagnosed person's parents, at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home or an independent hospital.

(6) in this paragraph:

'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease: 'relevant trust' means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions: 'trust payment' means a payment under a relevant trust.

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

- (a) was a slave labourer or a forced labourer:
- (b) had suffered property loss or had suffered personal injury: or
- (c) was a parent of a child who had died, during the second world war.

**16.16** (1) any payment made under or by:

- (a) the MacFarlane trust, the MacFarlane (special payments) trust, the macfarlane (special payments) (no 2) trust, the fund, the eileen trust, MFET limited, the Skipton fund, the caxton foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Windrush Compensation Scheme, the National Emergencies Trust, the Victims of Overseas Terrorism Compensation Scheme or the London bombings relief charitable fund (collectively referred to in this paragraph as 'the trusts'): or

(b) the Independent Living Fund (2006).

(1A) Any Grenfell Tower support payment

(1B) Any payment made by the Child Migrants Trust (registered charity number 1171479) under the scheme for former British child migrants.

(1C) Any historical child abuse payment

(1D) Any Windrush Payment

(1E) Any Post Office compensation payment

(1F) Any vaccine damage payment.

(1G) Any payment out of the estate of a person, which derives from a payment to meet the recommendation of the Infected Blood Inquiry in its interim report published on 29th July 2022 made under or by the Scottish Infected Blood Support Scheme or an approved blood support scheme to the estate of the person, where the payment is made to the person's son, daughter, step-son or step-daughter

(2) any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the trusts or from a Grenfell Tower support payment, a historical child abuse payment, Windrush payment, a Post Office Compensation payment or a vaccine damage payment and which is made to or for the benefit of that person's partner or former partner:

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

(b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death.

(3) any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the trusts or from a Grenfell Tower support payment, a historical child abuse payment, a Windrush payment, a Post Office Compensation payment or a vaccine damage payment and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.

(4) sub-paragraph (3) does not apply if:

(a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or

(b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

(5) any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the trusts or from a Grenfell Tower support payment, a historical child abuse payment, Windrush payment, a Post Office Compensation payment or a vaccine damage payment, where:

(a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household: and

(b) the payment is made either:

(i) to that person's parent or step-parent: or

(ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent, but only for a period from the date of the payment until the end of two years from that person's death

(6) any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the trusts or from a Grenfell Tower support payment, a historical child abuse payment, Windrush Payment, a Post Office Compensation payment or a vaccine damage payment, where:

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

(b) the payment is made either:

(i) to that person's parent or step-parent: or

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

(7) in the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from :

(a) any payment of income or capital made under or deriving from any of the trusts or

(b) a Grenfell Tower support payment, a historical child abuse payment, Windrush payment, a Post Office Compensation payment or a vaccine damage payment.

**16.16A** Any payment made under, or by, a trust which is approved by the Secretary of State and which is established for the purpose of giving relief and assistance to a disabled person whose disabilities were caused by their mother having taken a preparation containing the drug known as Thalidomide during her pregnancy

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

(2) where the whole or part of the payment is administered:

(a) by the high court or the county court under rule 21.11(1) of the Civil Procedure Rules 1998, or the court of protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court:

(b) in accordance with an order made under rule 36.14 of the ordinary cause rules 1993 or under rule 128 of those rules: or

(c) in accordance with the terms of a trust established for the benefit of the applicant or his partner, the whole of the amount so administered.



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

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

**16.20** So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of:

(a) purchasing premises which the applicant intends to occupy as his home: or

(b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

**16.21** (1) subject to paragraph 22 any amount paid

(a) by way of arrears of benefit:

(b) by way of compensation for the late payment of benefit:

(c) in lieu of the payment of benefit:

(d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph being an amount to which that paragraph does not apply:

(e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000(a) under a scheme known as 'supporting people' or section 91 of the housing (Scotland) Act 2001(b).

(f) by way of occasional assistance including arrears and payments in lieu of occasional assistance (and in this paragraph "occasional assistance" has the same meaning as in paragraph 16 of Schedule 1

(g) to rectify, or compensate for, an error made by an officer of the Department for Work and Pensions which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the applicant's entitlement to contributory employment and support allowance, being an amount to which paragraph 22(1A) does not apply.

(2) in sub-paragraph (1), 'benefit' means:

(a) Attendance Allowance under section 64 of the Social Security

Contributions and Benefits Act :

- (b) Disability Living Allowance:
- (c) Personal Independence Payment
- (d) an Armed Forces Independence Payment :
- (e) Income Support:
- (f) Income-Based Jobseeker's allowance:
- (g) State Pension Credit:
- (h) Housing Benefit:
- (i) Council Tax benefit:
- (j) Child Tax Credit:
- (k) an increase of a disablement pension under section 104 of the Social Security Contributions and Benefits Act (increase where constant attendance is needed), and any further increase of such a pension under section 105 of that act (increase for exceptionally severe disablement):
- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension:
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(c):
- (n) Working Tax Credit:
- (o) Income-Related Employment and Support Allowance
- (p) Social fund payments under Part 8 of the SSCBA
- (q) Universal credit
- (r) Maternity allowance under section 35 of the SSCBA (state maternity allowance for employed or self-employed earner)

- (s) Early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018;
  - (t) Funeral expense assistance given in accordance with section 34 of that act
  - (u) any Scottish child payment assistance given in accordance with section 79 of that Act
  - (v) any assistance given in accordance with the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019
  - (w) short-term assistance given in accordance with regulations under section 36 of the Social Security (Scotland) Act 2018;
  - (x) winter heating assistance given in accordance with regulations under section 30 of that Act; or
  - (y) bereavement support payment under section 30 of the Pensions Act 2014
- (3) In sub-paragraph (1) "contributory employment and support allowance" means an allowance under Part 1 of the Welfare Reform Act 2007(b) as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012(c) that remove references to an income-related allowance

**16.22** (1) subject to sub-paragraph (3), any payment of £5000 or more which has been made to rectify, or to compensate for, an official error or an error on a point of law relating to a relevant benefit and has been received by the applicant in full on or after the day on which he became entitled to a reduction under an authority's scheme.

(1A) Subject to paragraph (3), any payment of £5,000 or more received by the applicant in full on or after the day on which the applicant became entitled to a reduction under an authority's scheme which has been made to rectify, or compensate for, an error made by an officer of the Department for Work and Pensions which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the applicant's entitlement to contributory employment and support allowance.

(1B) In sub-paragraph (1A) "contributory employment and support allowance"

has the meaning in paragraph 21(3)

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

(a) paragraph 7(2) of schedule 10 to the Income Support (general) Regulations 1987(a):

(b) paragraph 12(2) of schedule 8 to the Jobseeker's Allowance Regulations 1996:

(c) paragraph 9(2) of schedule 5 to the Council Tax Benefit Regulations 2006(b):

(d) paragraph 20a of schedule 5 to the State Pension Credit Regulations 2002(c),

(e) paragraph 11(2) of schedule 9 to the Employment and Support Allowance Regulations 2008, where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(f) paragraph 18 of Schedule 10 to the Universal Credit Regulations 2013

(g) regulations 10A to 10C of the Universal Credit (Transitional Provisions) Regulations 2014

(a) 2000 c. 22: changes made to this section are not relevant to these Regulations.

(b) 2001 asp 10.

(c) s.i. 2001/1167.

(3) any disregard which applies under sub-paragraph (1), (1A) or (2) is to have effect until the award comes to an end.

(4) in this paragraph:

'the award', except in sub-paragraph (2), means:

(a) the award of a reduction under an authority's scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received: and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant:

(i) is the person who received the relevant sum:

(ii) is the partner of that person: or

(iii) was the partner of that person at the date of his death:

‘official error’ means:

(a) where the error relates to Housing Benefit or Council Tax benefit (in respect of any period before 1 April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and the Council Tax benefit (decisions and appeals) Regulations 2001: and

(b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and child support (decisions and appeals) Regulations 1999: ‘the relevant date’ means the date on which an application for a reduction under the authority’s scheme was made:

‘relevant benefit’ means any benefit specified in paragraph 21(2): and

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

**16.22A.** Any payment of a widowed parent’s allowance made pursuant to section 39A of the SSCBA (widowed parent’s allowance)—

(a) to the survivor of a cohabiting partnership (within the meaning in section 39A(7) of the SSCBA) who is entitled to a widowed parent’s allowance for a period before 9th February 2023(11), and

(b) in respect of any period of time during the period ending with the day before the survivor makes the claim for a widowed parent’s allowance,

but only for a period of 52 weeks beginning with the date of receipt of the payment or 1st April 2024, whichever is later.

**16.22B.**—(1) A payment of bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017 (rate of bereavement support payment)(12), but only for the period of 52 weeks from the date of receipt of the payment.

(2) Where bereavement support payment under section 30 of the Pensions Act 2014 is paid to the survivor of a cohabiting partnership (within the meaning of section 30(6B) of that Act) in respect of a death occurring before 9th February 2023, any amount of that payment which is—

(a) in respect of the rate set out in regulation 3(1) of the Bereavement Support Payment Regulations 2017, and

(b) paid as a lump sum for more than one monthly recurrence of the day of the month on which their cohabiting partner died,

but only for a period of 52 weeks beginning with the date of receipt of the payment or 1st April 2024, whichever is later.

**16.23** Where a capital asset is held in a currency other than sterling, any banking charge or commission payable in converting that capital into sterling.

**16.24** The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

**16.25** Any arrears of supplementary pension which is disregarded under paragraph 4 of schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that schedule.

**16.26** The dwelling occupied as the home: but only one dwelling may be disregarded under this paragraph.

(a) s.i. 1987/1967.

(b) s.i. 2006/215.

(c) s.i. 2002/1792: paragraph 20a was inserted by regulation 2 of, and paragraph 12 of the schedule to, s.i. 2002/3197 and substituted by Regulations 2 and 12 of s.i. 2003/2274. It has since been amended by s.i. 2008/1554 and s.i. 2008/3157.

**16.27** (1) subject to sub-paragraph (2) where an applicant falls within class c (alternative maximum Council Tax Reduction), the whole of his capital.

(2) sub-paragraph (1) does not apply, where an applicant falls within class b (income greater than applicable amount) and class c.

**16.28** Where a person elects to be entitled to a lump sum under schedule 5 or 5a to the Social Security Contributions and Benefits Act or under schedule 1 to the Social Security (graduated retirement benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to:

(a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum: or

(b) the amount of that lump sum, but only for so long as that person does not change that election in favour of an increase of pension or benefit.

**16.28A** where a person chooses a lump sum under section 8(2) of the Pensions Act 2014 or in accordance with Regulations made under section 10 of that Act which include provision corresponding or similar to section 8(2) of that act, or fails to make a choice, and a lump sum payment has been made equal to :

(a) except where sub paragraph (b) applies, the amount of any payment or payments made on account of that lump sum, or

(b) the amount of that lump sum but only for so long as that person does not change that election in favour of an increase of pension.

**16.29** Any payments made:

(a) by virtue of regulations made under section 57 of the Health and Social Care Act 2001 (direct payments):

(b) under section 12b of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services):

(c) by virtue of regulations made under sections 12a to 12c of the National Health Service Act 2006 (direct payments for health care):

(d) by virtue of regulations made under article 15 of the Health and Personal Social Services (Northern Ireland) order 1972(a) (general social welfare):

(e) by virtue of regulations made under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002(b) (direct payments)

(f) by virtue of regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)

(g) under sections 31 to 33 of the Care Act 2014 (direct payments)

**16.29A** Any payments made under the Age-Related Payments Regulations 2013.

**16.29B** Any payments to an applicant made under section 49 of the Children and Families Act 2014(c) (personal budgets and direct payments).

**16.29C** (1) Any payment made by a local authority in accordance with section 261 of the Children (Scotland) Act 1995 (duty to provide continuing care) (d)

(5) Any payment or part of a payment made by a local authority in accordance with that section to a person ("A") which A passes on to the applicant where A -

- (a) was formerly in the applicant's care;
- (b) is aged 16 or over; and
- (c) continues to live with the applicant

**16.29D** Any lump sum payment made in accordance with regulation 24 of the Victims' Payments Regulations 2020

**16.29E** Any sum paid by means of assistance in accordance with the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019.

**16.29F** Any sum paid by means of winter heating assistance in accordance with regulations under section 30 of the Social Security (Scotland) Act 2018.

- (a) s.i. 1972/1265 (n.i. 14).
- (b) 2002 c. 6
- (c) 2014 c.6
- (d) 1995 c.36

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

- 17.1** The value of the right to receive any income under a life interest or from a life rent.
- 17.2** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
- 17.3** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 17.4** Where property is held under a trust, other than:
  - (a) a charitable trust within the meaning of the charities Act 1993: or
  - (b) a trust set up with any payment to which paragraph 16 of this schedule applies, and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.