

**OXFORDSHIRE COUNCIL TAX REDUCTION  
SCHEME  
(WORKING AGE)**

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## Part 1 - General (Regs 1-8)

### Regulation 1 Commencement and application

(1) This scheme comes into force in the billing authority of Oxford City Council from 1 April 2013.

### Regulation 2 Interpretation:

2.—(1) In these Regulations—

“**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;

“**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;

“**alternative maximum council tax reduction**” means the amount determined in accordance with regulation 62 and Schedule 2;

“**applicable amount**” means the amount calculated in accordance with regulations 12-13

“**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 regulation 20 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 regulation 21 for the purpose of calculating the weekly income of the applicant;

**“attendance allowance”** means—

(a) an attendance allowance under Part 3 of the SSCBA;

(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 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;

**“the benefit Acts”** means the SSCBA, the Jobseekers Act 1995, the State Pension Credit Act 2002 and the Welfare Reform Acts 2007 and 2012;

**“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 and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 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 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 28th 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;

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

“**child benefit**” has the meaning given by section 141 of the SSCBA;

“**child tax credit**” means a child tax credit under section 8 of the Tax Credits Act 2002;

“**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 are charged;

“**contributory employment and support allowance**” means a contributory allowance under Part 1 of the Welfare Reform Act 2007;

“**council tax benefit**” means council tax benefit under Part 7 of the SSCBA;

“**couple**” means –

- (a) a man and a woman who are married to each other and are members of the same household;
- (b) a man and a woman who are not married to each other but are living together as husband and wife
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and for the purposes of sub-paragraph (d),

two people of the same sex are to be regarded as living together as if they were civil partners, of, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

**“Date of claim”** means the date on which the claim is made, or treated as made, for the purposes of regulation 71 (Time and Manner in which claims are to be made);

**“Default Scheme Regulations”** means the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012;

**“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 SSCBA;

**“earnings”** has the meaning given by regulations 38,40 or 41 as the case may be;

**“the Eileen Trust”** means the charitable trust of that name established on 29th 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;

**“employed earner”** is to be construed in accordance with section 2(1)(a) of the SSCBA 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;

**“enactment”** includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

**“extended reduction”** means a reduction under a scheme for which a person is eligible under regulations 60A – 60C;

**“extended reduction period”** means the period for which a person is in receipt of an extended reduction in accordance with regulation 60A;

**“extended reduction (qualifying contributory benefits)”** means a reduction under Part 10 by which a person is eligible pursuant to regulation 60C;

**“family”** has the meaning given by Regulation 9 (1);

**“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 24th April 1992 or, in Scotland, on 10th April 1992;

**“guarantee credit”** is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002;

**“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;

**“housing benefit”** means housing benefit under Part 7 of the SSCBA;

**“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;

**“income-related employment and support allowance”** means an income-related allowance under Part 1 of the Welfare Reform Act 2007;

**“independent hospital”**—

(a) in England means a hospital as defined by section 275 of the National Health Service Act 2006 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; and

(c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978;

**“the Independent Living Fund (2006)”** means the Trust of that name established by a deed dated 10th 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;

**“the London Bombings Relief Charitable Fund”** means the company limited by guarantee (number 5505072), and registered charity of that name established on 11th 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 7th July 2005;

**“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<sup>th</sup> 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 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

**“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;

**“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;

**“maximum council tax reduction amount”** means the amount determined in accordance with regulation 139.

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

**“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 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;

**“net earnings”** means such earnings as are calculated in accordance with regulation 26;

**“net profit”** means such profit as is calculated in accordance with regulation 28;

“**new dwelling**” means, for the purposes of the definition of “second authority” and regulation 156, 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 3;

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

“**partner**”, 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;

“**paternity leave**” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act; **[Does act of 2010 apply here?]**

“**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;

“**pensionable age**” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995;

“**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 7;

**“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) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 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;

(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 27 applies;

**“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;

**“qualifying person”** means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

**“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 5;

**“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 refer, less any deductions in respect of non-dependants which fall to be made under regulation 140 (non-dependant deductions);



“**savings credit**” is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

“**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 SSCBA;

“**service user group**” means a group of individuals that is consulted by or on behalf of—

(a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978,

(b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,

(c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995,

(d) a public authority in consequence of a function relating to disability under section 149 of the Equality Act 2010;

(e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,

(f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,

(g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,

(h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,

(i) the Care Quality Commission in consequence of a function under section 4 or 5 of the Health and Social Care Act 2008,

(j) the regulator or a private registered provider of social housing in consequence of a function under section 98, 193 or 196 of the Housing and Regeneration Act 2008, or

(k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

“**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 25th 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 out of sums allocated to it for distribution under that section;

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

“**state pension credit**” means state pension credit under the State Pension Credit Act 2002;

“**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 6th April in one year and ending with 5th April in the next;

“**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, the Chief Executive of Skills Funding 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, 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;

**“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;

**“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 widower’s 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,

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

“**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 SSCBA.

(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 Jobseekers Act 1995 (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 (loss of benefit provisions).

(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.

(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 (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 regulations 11 to 13.

### **Meaning of “pensioner” and “person who is not a pensioner”**

**3.** In these Regulations a person is—

(a) a “pensioner” if—

(i) he has attained the qualifying age for state pension credit; and

(ii) he is not, or, 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.

#### **Regulation 4 Non-dependants**

4.—(1) In these Regulations, “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.

(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 regulation 8 (households);

(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>(1)</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.

(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.

### **Regulation 5 Disapplication of section 1(1A) of the Administration Act**

Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply— SI 2009/471

- (a) in the case of a child or young person in respect of whom council tax benefit is claimed;
- (b) to a person who—
  - (i) is a person in respect of whom a claim for housing benefit is made;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;
  - (iii) is a person from abroad for the purposes of these Regulations as defined in CTRS (Prescribed Requirements) Regulations, regulation 12(2); and
  - (iv) has not previously been allocated a national insurance number.

### **Regulation 6**

#### **Remunerative work**

6—(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 expectation of payment.

(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—

(a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);

(b) in any other case, the period of 5 weeks immediately prior to the date of application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and 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.

(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.

(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.

(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.

(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 or adoption leave, or is absent from work because he is ill.

(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.

#### **Regulation 7: Persons treated as not being in Great Britain**

7.—(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.

(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.

(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.

(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 EEA Regulations or Article 6 of Council Directive

2004/38/EC; or



(b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).

(5) A person falls within this paragraph if the person is—

(a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;

(b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;

(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 EEA Regulations;

(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 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

(e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971 on the rejection of their claim for asylum;

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

(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 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.

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

(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.

(8) In this regulation—

“**claim for asylum**” has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;

“**Crown servant**” means a person holding an office or employment under the Crown;

“**EEA Regulations**” means the Immigration (European Economic Area) Regulations 2006; and

“**Her Majesty’s forces**” has the same meaning as in the Armed Forces Act 2006

### **Regulation 8 - Persons subject to immigration control**

**Regulation 8.**—(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.

(2) “Person subject to immigration control” has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

## **Part 2 - Membership of a family (Regulations 9-11)**

### **Meaning of “family”**

**Regulation 9.**—(1) In these Regulations “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.

(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 SSCBA applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).

(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; or

(b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

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

**Regulation 10** —(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 28(2) applies.

(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.

(3) For the purposes of these Regulations 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 regulation is to be treated as not so responsible.

### **Households**

**Regulation 11.**—(1) Subject to paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of regulation 29) as responsible for a child or young person, 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.

(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 or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out 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, the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.

(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.

(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.

(5) In this regulation "**relevant enactment**" means—

(a) the Army Act 1955;

(b) the Air Force Act 1955;

(c) the Naval Discipline Act 1957;

(d) the Matrimonial Proceedings (Children) Act 1958;

(e) the Social Work (Scotland) Act 1968;

- (f) the Family Law Reform Act 1969;
- (g) the Children and Young Persons Act 1969;
- (h) the Matrimonial Causes Act 1973;
- (i) the Children Act 1975;
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (k) the Adoption and Children (Scotland) Act 2007;
- (l) the Family Law Act 1986;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

### **Part 3 - Applicable amounts (Regulations 12-14)**

#### **Regulation 12 Applicable amounts**

Subject to, regulation 13 (Polygamous marriages), a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1(1), (2) or (3), as the case may be, of Schedule 1;
- (b) an amount determined in accordance with paragraph 2 of Schedule 1 in respect of any child or young person who is a member of his family;
- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of Schedule 1 (family premium);
- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of Schedule 1 (premiums).
- (e) the amount of either the-
  - (i) work-related activity component; or
  - (ii) support component
 which may be applicable to him in accordance with Part 5 of Schedule 1 (the components).
- (f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 1 (transitional addition).

#### **Regulation 13 Polygamous marriages**

- 13. 1)** This regulation 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.

(2) For the purposes of regulation 26 neither party to the marriage is to be taken to be a member of a couple.

#### **Part 4 - Income and capital - Section 1 - General (Regulations 14-15)**

##### **Regulation 14 Calculation of income and capital of members of claimant's family and of a polygamous marriage**

(1) The income and capital of a claimant's partner which by virtue of section 136(1) of the Act is to be treated as income and capital of the claimant, shall be calculated or estimated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall, except where the context otherwise requires, be construed for the purposes of this Part as if it were a reference to his partner.

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

(a) the claimant shall be treated as possessing capital and income belonging to each such member; and

(b) the income and capital of that member shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant.

(3) The income and capital of a child or young person shall not be treated as the income and capital of the claimant.

##### **Regulation 15 Circumstances in which capital and income of non-dependant is to be treated as claimant's**

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

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

#### **Part 4 - Income and capital - Section 2 - Income (Regulations 16-24)**

### **Regulation 16 Calculation of income on a weekly basis**

(1) Subject to regulation 24 (disregard of changes in tax, contributions etc.), for the purposes of section 131(5) of the Act (conditions of entitlement to council tax benefit) the income of a claimant shall be calculated on a weekly basis—

(a) by estimating the amount which is likely to be his average weekly income in accordance with this Section and Sections 3 to 5 of this Part and Part 5;

(b) by adding to that amount the weekly income calculated under regulation 42 (calculation of tariff income from capital); and

(c) by then deducting any relevant child care charges to which regulation 18 (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 (2) are met, from those earnings plus whichever credit specified in subparagraph

(b) of that paragraph is appropriate, up to a maximum deduction in respect of the claimant's family of whichever of the sums specified in paragraph (3) applies in his case.

(2) The conditions of this paragraph are that—

(a) the claimant'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 claimant or, if he is a member of a couple either the claimant or his partner, is in receipt of either working tax credit or child tax credit.

(3) The maximum deduction to which paragraph (1)(c) above refers shall be—

(a) where the claimant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;

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

(4) For the purposes of paragraph (1) "income" includes capital treated as income under regulation 31 (capital treated as income) and income which a claimant is treated as possessing under regulation 32 (notional income).

### **Regulation 17 Treatment of child care charges**

**18.—**(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).

(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 SSCBA;

(c) is paid an employment and support allowance;

(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.

(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.

(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.

(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).

(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.

(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 regulation 29 (circumstances in which a person is treated as responsible or not responsible for another); or

(c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

(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; or

(c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; 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 establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or

(e) by—

(i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; 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; or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 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 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, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer 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 and being a regulated activity prescribed by those Regulations; or
- (m) by a person who is not a relative of the child wholly or mainly in the child’s home.

(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.

(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 regulation 46 is treated as applying in his case; and

- (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 SSCBA;

(c) the applicant's applicable amount would include the support component or the work related activity component on account of the other member having limited capability for work 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;

(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 SSCBA (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 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 SSCBA;

(ii) attendance allowance under section 64 of the SSCBA;

(iii) severe disablement allowance under section 68 of the SSCBA;

(iv) disability living allowance;

(v) personal independence payment;

(vi) an AFIP;

(vii) increase of disablement pension under section 104 of the SSCBA;

(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;

(g) a pension or allowance to which sub-paragraph (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;

(h) an attendance allowance under section 64 of the SSCBA, a personal independence payment 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 SSCBA; or

(ii) an abatement as a consequence of hospitalisation;

(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 AFIP 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.

(k) paragraph (f), (g), (h) or (i) 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

(l) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 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.

(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.

(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.

(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 allowance is payable or would be payable but for—

(i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or

(ii) an abatement as a consequence of hospitalisation;

(b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);

(c) who is registered as blind in a register compiled 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 as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

(d) who ceased to be registered as blind 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.

(14) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided that—

(a) in the week before the period of maternity leave, paternity 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 SSCBA, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of that Act, statutory adoption pay by virtue of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

(15) For the purposes of sub-paragraph (14) the relevant period begins on the day on which the person's maternity, paternity 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 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 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.

(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; 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).

(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.

### **Regulation 18 Average weekly earnings of employed earners**

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

(a) over a period immediately preceding the benefit week in which the claim is made or treated as made and being a period of—

(i) 5 weeks, if he is paid weekly; or

(ii) 2 months, if he is paid monthly; or

(b) whether or not sub-paragraph (a)(i) or (ii) applies, where a claimant’s earnings fluctuate, over such other period preceding the benefit week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

(2) Where the claimant has been in his employment for less than the period specified in paragraph (1)(a)(i) or (ii)—

(a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings shall be estimated by reference to those earnings;

(b) in any other case, the relevant authority shall require the claimant’s employer to furnish an estimate of the claimant’s likely weekly earnings over such period as the relevant authority may require and the claimant’s average weekly earnings shall be estimated by reference to that estimate.

(3) Where the amount of a claimant’s earnings changes during an award the relevant 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.

(4) For the purposes of this regulation the claimant’s earnings shall be calculated in accordance with Section 3 of this Part.

### **Regulation 19 Average weekly earnings of self-employed earners**

(1) Where a claimant'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.

(2) For the purposes of this regulation the claimant's earnings shall be calculated in accordance with Section 4 of this Part.

### **Regulation 20 Average weekly income other than earnings**

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

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

(3) For the purposes of this regulation income other than earnings shall be calculated in accordance with Section 5 of this Part.

### **Regulation 21 Calculation of average weekly income from tax credits**

(1) This regulation applies where a claimant receives a tax credit.

(2) Where this regulation applies, the period over which a tax credit is to be taken into account shall be the period set out in paragraph (3).

(3) Where the instalment in respect of which payment of a tax credit is made is—

(a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;

(b) a weekly instalment, the period is 7 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 6 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.

(4) For the purposes of this regulation "tax credit" means child tax credit or working tax credit.

### **Regulation 22 Calculation of income and capital for persons who have an award of Universal Credit**

(1) In determining the income of an applicant –

(a) who has, or

(b) whose partner has, or

(c) who (jointly with his partner) has,

an award of universal credit, the authority will, subject to the following provisions of this paragraph, use the calculation or estimate of the income of the application, or the applicant's

partner, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award.

- (2) the authority will modify the figure provided by the Secretary of State to take into account
- (a) the amount of any universal credit payable net of the housing costs element;
  - (b) any sum to be disregarded under Schedule 3 of this scheme (sums to be disregarded in the calculation of earnings);
  - (c) any sum to be disregarded under Schedule 4 of this scheme (sums to be disregarded in the calculation of income other than earnings);
  - (d) the income and capital of any partner of the applicant who is a member of the applicant's household, to the extent that it is not taken into account in determining the net income of the person claiming universal credit;
  - (e) circumstances where the Local Authority considers that the income and capital of a non dependant are to be treated as that of the claimant (Regulation 16)

(3) Other regulations regarding calculation of income apply only for the purpose of determining any modifications which fall to be made to the figure for earned income under paragraph 2

(4) In determining the capital of an application –

- (a) who has, or
- (b) whose partner has, or
- (c) who (jointly with his partner) has,

An award of universal credit, the authority will use the calculation or estimate of the capital of the applicant, the applicant's partner or the applicant and his partner jointly (as the case may be) made by the Secretary of State for the purpose of determining that award.

### **Regulation 23 Calculation of weekly income**

(1) For the purposes of regulations 19 (average weekly earnings of employed earners), 21 (average weekly income other than earnings) and 22 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—

(i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;



(ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

(2) For the purposes of regulation 20 (average weekly earnings of self-employed earners) the weekly amount of earnings of a claimant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.

#### **Regulation 24 Disregard of changes in tax, contributions etc**

In calculating the claimant's income the appropriate authority may disregard any legislative change—

- (a) in the basic or other rates of income tax;
  - (b) in the amount of any personal tax relief;
  - (c) in the rates of social security contributions payable under the Act or in the lower earnings limit or upper earnings limit for Class 1 contributions under the Act, the lower or upper limits applicable to Class 4 contributions under the Act or the amount specified in section 11(4) of the Act (small earnings exception 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 Act;
  - (e) in the maximum rate of child tax credit or working tax credit,
- for a period not exceeding 30 benefit weeks beginning with the benefit week immediately following the date from which the change is effective.

### **Part 4 - Income and capital - Section 3 - Employed Earners (Regulations 25-26)**

#### **Regulation 25 Earnings of employed earners**

(1) Subject to paragraph (2), "earnings" means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by the claimant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant's employer in respect of—
  - (i) travelling expenses incurred by the claimant between his home and place of employment;
  - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant's absence from home;
- (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- (gg) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);

(h) any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);

(i) any statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;

(j) any remuneration paid by or on behalf of an employer to the claimant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;

(k) 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.

(2) Earnings shall not include—

(a) subject to 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 payment in respect of expenses arising out of the claimant's participation in a service user group.

(3) Paragraph (2)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (1)(k).

### **Regulation 26 Calculation of net earnings of employed earners**

(1) For the purposes of regulation 19 (average weekly earnings of employed earners), the earnings of a claimant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in paragraphs 1 to 14 of Schedule 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 claimant from that employment over the assessment period, less—

(a) any amount deducted from those earnings by way of—

(i) income tax;

(ii) primary Class 1 contributions under the Act;

(b) one-half of any sum paid by the claimant by way of a contribution towards an occupational pension scheme;

(c) one-half of the amount calculated in accordance with paragraph (5) in respect of any qualifying contribution payable by the claimant; 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, ordinary or additional statutory paternity 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 Act.

(4) In this regulation "qualifying contribution" means any sum which is payable periodically as a contribution towards a personal pension scheme.

(5) 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 regulation 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.

(6) Where the earnings of a claimant are estimated under sub-paragraph (b) of paragraph (2) of regulation 19 (average weekly earnings of employed earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—

(a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the claimant 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 which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

#### **Part 4 - Income and capital - Section 4 - Self-employed Earners (Regulations 27-29)**

##### **Regulation 27 Earnings of self-employed earners**

(1) Subject to paragraph (2), "earnings", in the case of employment as a self-employed earner, means the gross income of the employment.

(2) "Earnings" shall not include any payment to which paragraph 27 or 28 of Schedule 4 refers (payments in respect of a person accommodated with the claimant under arrangements made by a local authority or voluntary organisation and payments made to the claimant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the claimant's care) nor shall it include any sports award.

(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 claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

(4) Where the claimant'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 Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the claimant's case.

## **Regulation 28 Calculation of net profit of self-employed earners**

(1) For the purposes of regulation 20 (average weekly earnings of self-employed earners) the earnings of a claimant to be taken into account shall be—

(a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;

(b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975(c), 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 Act calculated in accordance with regulation 29 (deduction of tax and contributions for self-employed earners); and

(ii) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(2) There shall be disregarded from a claimant's net profit, any sum, where applicable, specified in paragraphs 1 to 14 of Schedule 3.

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

(a) subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;

(b) an amount in respect of—

(i) income tax; and

(ii) social security contributions payable under the Act, calculated in accordance with regulation 29 (deduction of tax and contributions for self-employed earners); and

(c) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(4) For the purposes of paragraph (1)(b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to paragraph (6), no deduction shall be made under paragraph (3)(a) or (4), in respect of—

(a) any capital expenditure;

(b) the depreciation of any capital asset;

(c) any sum employed or intended to be employed in the setting up or expansion of the employment;

(d) any loss incurred before the beginning of the assessment period;

(e) the repayment of capital on any loan taken out for the purposes of the employment;

(f) any expenses incurred in providing business entertainment; and

(g) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.

(6) A deduction shall be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

(a) the replacement in the course of business of equipment or machinery; and

(b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The relevant authority shall refuse to make a deduction in respect of any expenses under paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

(a) a deduction shall not be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;

(b) a deduction shall be made thereunder in respect of—

(i) the excess of any value added tax paid over value added tax received in the assessment period;

(ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;

(iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—

(a) an amount in respect of—

(i) income tax; and

(ii) social security contributions payable under the Act, calculated in accordance with regulation 29 (deduction of tax and contributions for self-employed earners); and

(b) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(10) For the avoidance of doubt where a claimant 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 shall not be offset against his earnings in any other of his employments.

(11) The amount in respect of any qualifying premium shall 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 regulation the daily amount of the qualifying premium shall 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.

(12) In this regulation, "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.

### **Regulation 29 Deduction of tax and contributions for self-employed earners**

(1) The amount to be deducted in respect of income tax under regulation 28(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the claimant 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 reliefs deductible under this paragraph shall be calculated on a pro rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 28(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) shall be the total of—

(a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act at the rate applicable to the assessment period except where the claimant's chargeable income is less than the amount specified in section 11(4) of the Act (small earnings exception) 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 shall be reduced pro rata; and

(b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the 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 shall be reduced pro rata.

(3) In this regulation "chargeable income" means—

(a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 28;

(b) in the case of employment as a child minder, one-third of the earnings of that employment.

#### **Part 4 - Income and capital - Section 5 - Other Income (Regulations 30-32)**

##### **Regulation 30 Calculation of income other than earnings**

(1) For the purposes of regulation 21 (average weekly income other than earnings), the income of a claimant which does not consist of earnings to be taken into account shall, subject to paragraphs (2) to (8), be his gross income and any capital treated as income under regulation 31 (capital treated as income).

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

(3)

(4)

(4A)

(5) 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.

(5A) Where the claimant 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.

(6) 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.

(7) In paragraph (6), "tax year" means a period beginning with 6th April in one year and ending with 5th April in the next.

(8) Paragraphs (9) and (9A) 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.

(9) 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—

$$A - (B \times C) / D$$

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.

(9A) 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).

(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) 1st January and ending on 31st March;

- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December;

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

(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 claimant 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 claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

### **Regulation 31 Capital treated as income**

(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 claimant's capital otherwise calculated in accordance with Section 6 exceeds £16,000, be treated as income.

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

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

(4) Any Career Development Loan paid pursuant to section 2 of the 1973 Act shall be treated as income.

(5) Where an agreement or court order provides that payments shall be made to the claimant in consequence of any personal injury to the claimant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the claimant (but not a payment which is treated as capital by virtue of this Part), shall be treated as income.

### **Regulation 32 Notional income**

(1) A claimant 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 claimant 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 claimant upon application being made, but which has not been acquired by him, shall be treated as possessed by the claimant but only from the date on which it could be expected to be acquired were an application made.

(3)

(3A)

(4)

(5)

(6) Any payment of income, other than a payment of income specified in paragraph (7), made—

(a) to a third party in respect of a single claimant 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 claimant or, as the case may be, by that member;

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

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

(7) Paragraph (6) 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 claimant'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.

(8) Where a claimant 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 1st April in any year but not more than 14 days thereafter, the relevant authority shall treat the claimant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the relevant authority shall select to apply in its area, to the date on which the altered rate is to take effect.

(9) Subject to paragraph (10), where—

(a) a claimant performs a service for another person; and

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

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

(10) Paragraph (9) shall not apply—

(a) to a claimant 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 claimant'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 claimant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;

(ii) the claimant's or the claimant'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

(c) to a claimant 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.

(10A) In paragraph (10)(c) "work placement" means practical work experience which is not undertaken in expectation of payment.

(11) Where a claimant is treated as possessing any income under any of paragraphs (1) to (8), 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.

(12) Where a claimant is treated as possessing any earnings under paragraph (9) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 26 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less—

(a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to

which the claimant 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 claimant by way of a contribution towards an occupational or personal pension scheme.

(13) Paragraphs (1), (2), (6) and (9) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the claimant's participation in a service user group.

#### **Part 4 - Income and capital - Section 6 - Capital (Regulations 33-42)**

##### **Regulation 33 Capital limit**

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

##### **Regulation 34 Calculation of capital**

(1) For the purposes of Part 7 of the Act as it applies to council tax reduction, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 36 (income treated as capital).

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

##### **Regulation 35 Disregard of capital of child or young person**

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

##### **Regulation 36 Income treated as capital**

(1) Any bounty derived from employment to which paragraph 8 of Schedule 3 applies and paid at intervals of at least one year shall be treated as capital.

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

(3) Any holiday pay which is not earnings under regulation 25(1)(d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or, 25 to 28, 47 or 48 of Schedule 5, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

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

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under 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.

(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.

(8) Any arrears of subsistence allowance which are paid to a claimant as a lump sum shall be treated as capital.

(9) Any arrears of working tax credit or child tax credit shall be treated as capital

### **Regulation 37 Calculation of capital in the United Kingdom**

Capital which a claimant possesses in the United Kingdom shall 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.

### **Regulation 38 Calculation of capital outside the United Kingdom**

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

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,  
less, where there would be expenses attributable to sale, 10 per cent. and the amount of any encumbrances secured on it.

### **Regulation 39 Notional capital**

(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax benefit or increasing the amount of that benefit except to the extent that that capital is reduced in accordance with regulation 40 (diminishing notional capital rule).

(2) Except in the case of—

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; 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 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); or
- (ea) any sum to which paragraph 48(a) of Schedule 5 refers; or
- (f) child tax credit; or
- (g) working tax credit,

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

(3) Any payment of capital, other than a payment of capital specified in paragraph (4), made—

(a) to a third party in respect of a single claimant 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 claimant or, as the case may be, by that member;

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

(c) to a single claimant 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 claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) 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

(v) 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 a claimant'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.

(5) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—

(a) the value of his holding in that company shall, notwithstanding regulation 34 (calculation of capital) 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.

(6) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (5) shall be disregarded.

(7) Where a claimant 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.

#### **Regulation 40 Diminishing notional capital rule**

(1) Where a claimant is treated as possessing capital under regulation 39(1) (notional capital), the amount which he is treated as possessing—

(a) in the case of a week that is subsequent to—

- (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied; or
- (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph (3);

(b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—

- (i) that week is a week subsequent to the relevant week; and
- (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied, shall be reduced by the amount determined under paragraph (4).

(2) This paragraph applies to a benefit week or part-week where the claimant satisfies the conditions that—

(a) he is in receipt of council tax benefit; and

(b) but for regulation 39(1), he would have received an additional amount of council tax benefit in that week.

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

(a) the additional amount to which sub-paragraph (2)(b) refers;

(b) where the claimant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 39(1) of the Housing Benefit Regulations (notional capital);

(c) where the claimant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support Regulations(a)(notional capital);

(d) where the claimant 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 whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) and

(e) where the claimant 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 whole or part of benefit week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).

(4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to council tax benefit in the relevant week but for regulation 39(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

(a) the amount of council tax benefit to which the claimant would have been entitled in the relevant week but for regulation 39(1); and for the purposes of this sub-paragraph if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of council tax benefit to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;

(b) if the claimant would, but for regulation 39(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—

(i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or

(ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,

and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;

(c) if the claimant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support 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 and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;

(d) if the claimant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7 and

(e) if the claimant would, but for regulation 115 of the Employment and Support Allowance Regulations, 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 and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.

(5) The amount determined under paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for council tax benefit and the conditions in paragraph (6) are satisfied, and in such a case—

(a) sub-paragraphs (a) to (d) of paragraph (4) shall apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and

(b) subject to paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(6) The conditions are that—

(a) a further claim is made 26 or more weeks after—

(i) the date on which the claimant made a claim for council tax benefit in respect of which he was first treated as possessing the capital in question under regulation 39(1);

(ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which he last made a claim for council tax benefit which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to council tax benefit, whichever last occurred; and

(b) the claimant would have been entitled to council tax benefit but for regulation 39(1).

(7) The amount as re-determined pursuant to paragraph (5) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(8) For the purposes of this regulation—

(a) "part-week"—

(i) in paragraph (4)(a) means a period of less than a week for which council tax benefit is allowed;

(ii) in paragraph (4)(b) means a period of less than a week for which housing benefit is payable;

(iii) in paragraph (4)(c), (d) and (e) means—

(aa) 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

(bb) any other period of less than a week for which it is payable;

(b) "relevant week" means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 39(1)—

(i) was first taken into account for the purpose of determining his entitlement to council tax benefit; or

(ii) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to council tax benefit on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax benefit;

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

(c) "relevant subsequent week" means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

#### **Regulation 41 Capital jointly held**

Except where a claimant possesses capital which is disregarded under regulation 39(5) (notional capital) where a claimant and one or more persons are beneficially entitled in possession to any



capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Section shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess.

#### **Regulation 42 Calculation of tariff income from capital**

(1) Where the claimant'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.

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

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 36 (income treated as capital).

### **Part 5 - Students - Section 1 - General (Regulations 43-45)**

#### **Regulation 43 Interpretation**

(1) In this Part—

"academic year" means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st 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;

"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, any body 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 to which paragraph 12 of Schedule 4 or paragraph 53 of Schedule 5 applies;

"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;

(c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

"periods of experience" means periods of work experience which form part of a sandwich course;

"qualifying course" means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations;

"sandwich course" has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans)(Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2001, as the case may be;

"standard maintenance grant" means—

(a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 ("the 2003 Regulations") for such a student;

(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.

(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.

(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.

(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.

#### **Regulation 44 Treatment of students**

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

#### **Regulation 45 Students who are excluded from entitlement to council tax benefit**

(1) Except to the extent that a student may be entitled to an alternative maximum council tax benefit by virtue of section 131(3) and (6) of the Act, a student to whom paragraph (2) applies is a person of

a prescribed class for the purposes of section 131(3)(b) of the Act (persons excluded from entitlement to council tax benefit).

(2) Subject to paragraph (3) and (7), this paragraph applies to a full-time student and students who are persons from abroad within the meaning of Regulations 7 to 8

(3) 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 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) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;

(g) who is a single claimant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989(a) or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968(b);

(h) who is—

(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 142 of the Act (child and qualifying young person);

(i) in respect of whom—

(i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;

(ii) 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;

(iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986, on account of his disability by reason of deafness.

(3A) Paragraph (3)(h)(ii) only applies to a claimant until the end of the course during which the claimant attained the age of 21.

(4) For the purposes of paragraph (3), once paragraph (3)(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.

(5) In paragraph (3)(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).

(6) A full-time student to whom sub-paragraph (i) of paragraph (3) applies, shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

(7) Paragraph (2) shall not apply to a full-time student for the period specified in paragraph (8) 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 (8).

(8) The period specified for the purposes of paragraph (7) 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.

## **Part 5 - Students - Section 2 - Income (Regulations 46-56)**

### **Regulation 46 Calculation of grant income**

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

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

- (a) intended to meet tuition fees or examination fees;
- (b) 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.

(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.

(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.

(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.

(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.

(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.

(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.

#### **Regulation 47 Calculation of covenant income where a contribution is assessed**

(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.

(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.

(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).

#### **Regulation 48 Covenant income where no grant income or no contribution is assessed**

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

(a) any sums intended for any expenditure specified in regulation 46(2)(a) to (e) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;

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

(c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under regulation 46(2)(f) and (3) (calculation of grant income) 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.

(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 subparagraphs (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 regulation 46(2)(a) to (e); and

(b) the amount to be disregarded under paragraph (1)(c) shall be abated by an amount equal to the amount of any sums disregarded under regulation 46(2)(f) and (g) and (3).

#### **Regulation 49 Relationship with amounts to be disregarded under Schedule 4**

No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 4.

#### **Regulation 50 Other amounts to be disregarded**

(1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with regulation 51, any amounts intended for any expenditure specified in regulation 46(2) (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 46(2) or (3), 47(3), 48(1)(a) or (c) or 51(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.



## **Regulation 51 Treatment of student loans**

(1) A student loan shall be treated as income.

(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 1st 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 1st September, the benefit week, the first day of which coincides with, or immediately follows, the earlier of 1st 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.

(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.

(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.

(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.

### **Regulation 51A 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.

### **Regulation 52 Treatment of payments from access funds**

(1) This regulation applies to payments from access funds that are not payments to which regulation 55 (2) or (3) (income treated as capital) applies.

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

(3) Subject to paragraph (4) of this regulation and paragraph 35 of Schedule 4, 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 claimant or, as the case may be, of the claimant 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 claimant or member is liable, shall be disregarded as income to the extent of £20 per week.

(4) Where a payment from access funds is made—

(a) on or after 1st 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.

### **Regulation 53 Disregard of contribution**

Where the claimant 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.

#### **Regulation 54 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.

#### **Regulation 55 Income treated as capital**

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

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

(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 claimant or member is liable, shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.

#### **Regulation 56 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.

#### **Part 6 - Amount of benefit (Regulations 57-63)**

##### **Regulation 57 Maximum council tax reduction**

(1) 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  $A/B$  where—

(a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and

(b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under regulation 58 (non-dependant deductions).

(2) In calculating a person's maximum council tax benefit 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, shall be taken into account.

(3) Subject to paragraph (4), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons but excepting any person so residing with the claimant who is a student to whom regulation 45(2) (students who are excluded from entitlement to council tax benefit) applies, in determining the maximum council tax benefit in his case in accordance with paragraph (1), the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

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

(5)

## Regulation 58 Non-dependant deductions

### Non-dependant deductions

**140.**—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in 139 are—

(a) in respect of a non-dependant aged 18 or over in remunerative work, £9.90 x 1/7;

(b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £3.30 x 1/7.

(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 £183.00, the deduction to be made under this paragraph is that specified in subparagraph (1)(b);

(b) not less than £183.00 but less than £316.00, the deduction to be made under this paragraph is £6.55;

(c) not less than £316.00 but less than £394.00, the deduction to be made under this paragraph is £8.25.

(3) Only one deduction is to 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 regulation, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

(4) In applying the provisions of 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.

(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.

(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) blind or treated as blind 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 SSCBA; 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 SSCBA; 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 (hospital in-patients); or

(iv) an AFIP, 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.

(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 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 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 regulation 9(6), 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.

(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; or

(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.

(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, personal independence payment or AFIP 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 or the Independent Living Fund (2006) which are paid as income in kind (see sub-paragraph (13)); and

(c) the payments set out in sub-paragraph (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 or the Independent Living Fund (2006);

(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 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;

(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) refers 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, 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, 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 any payment of income or capital made under or deriving from any of the Trusts.

(11) An applicant, or as the case may be, his partner is blind or treated as blind for the purposes of sub-paragraph (6)(a) if the applicant or his partner 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.

(12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind for a period of 28 weeks following the date on which he ceased to be so registered.

(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.



The prescribed percentage for the purpose of sub-section (5)(c)(ii) of section 131 of the Act as it applies to council tax reduction, (percentage of excess of income over the applicable amount which is deducted from maximum council tax benefit), shall be  $2\frac{6}{7}$  per cent.

**Regulation 60 Extended reductions (qualifying contributory benefit)**

**60 - 1)** Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under a scheme (by virtue of falling within any of classes A to C) is entitled to an extended reduction (qualifying contributory benefits) where—

(a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;

(b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—

(i) commenced employment as an employed or self-employed earner;

(ii) increased their earnings from such employment; or

(iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, increased earnings or increased number of hours are, expected to last five weeks or more;

(c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and

(d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to a reduction under an authority's scheme by virtue of falling within any of classes A to C where—

(a) the applicant ceased to be entitled to a reduction under the authority's scheme because the applicant vacated the dwelling in which the applicant was resident;

(b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and

(c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

**Regulation 60A Duration of extended reduction period (qualifying contributory benefits)**

**60A**—(1) Where an applicant is entitled to an extended reduction (qualifying 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 contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(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 contributory benefits) has no liability for council tax, if that occurs first.

#### **Regulation 60B Amount of extended reduction (qualifying contributory benefits)**

**60B** 1) For any week during the extended reduction period the amount of the extended reduction (qualifying 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 by virtue of falling within any of classes A to C in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;

(b) the amount of reduction under the authority's scheme to which the applicant would be entitled by virtue of falling within any of classes A to C for any reduction week during the extended reduction period, if regulation 153 (extended reductions (qualifying 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 by virtue of falling within any of classes A to C, if regulation 153 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying 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.

### **Regulation 60C: Extended reductions (qualifying contributory benefits): movers**

**60C** 1) This paragraph applies—

- (a) to a mover; and
- (b) from the Monday following the day of the move.

(2) The amount of the extended reduction (qualifying contributory benefit) awarded from the Monday from which this paragraph applies until the end of the extended reduction period is the amount of reduction under the authority's ("the first authority") scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from the first authority to—

- (a) the second authority; or
- (b) the mover directly.

### **Regulation 60D: Relationship between extended reduction (qualifying contributory benefits) and entitlement to a reduction by virtue of classes A to C**

**60D.**—(1) Where an applicant's reduction under an authority's scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in regulation 153(1)(b) (extended reductions: qualifying contributory benefits), that reduction does not cease to have effect until the end of the extended reduction period.

(2) Regulations 149 to 151 (period of entitlement and changes of circumstances) do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with regulation 155(1)(a) or regulation 156(2) (amount of extended reduction: movers).

### **Regulation 60E: Continuing reductions where state pension credit claimed**

**60E.**—(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, if his entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or

(ii) the applicant's partner has actually claimed state pension credit.

(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 or the age of 65; and

(b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(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.

(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.

(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.

(6) The appropriate maximum council tax reduction amount is to be calculated in accordance with regulation 139(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 regulation 140 (non-dependent deductions) falls to be made.

### **Regulation 60F - Extended reductions: movers into an authority's area**

**60F.** 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.

### **Regulation 62 Alternative maximum council tax benefit**

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

(2) Subject to paragraph (3), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax benefit in his case, the amount determined in accordance with Schedule 2 shall be divided by the number of persons who are jointly and severally liable for that tax.

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

### **Regulation 63 Residents of a dwelling to whom section 131(6) of the Act does not apply**

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

(a) a person who is liable for council tax solely in consequence of the provisions of sections 9, 77 or 77A of the 1992 Act (spouse's or civil partner's joint and several liability for tax);

(b) a person who is residing with a couple or with the members of a polygamous marriage where the claimant for council tax benefit is a member of that couple or of that marriage and—

(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(a), 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;

(c) a person who jointly with the claimant for benefit falls within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act(b) (persons liable to pay council tax) as applies in the case of the claimant;

(d) a person who is residing with two or more persons both or all of whom fall within the same paragraph of sections 6(2)(a) to (e) or 75(2)(a) to (e) of the 1992 Act and 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.

## **Part 7 - Changes of circumstances and increases for exceptional circumstances (Regulations 64-67)**

### **Regulation 64 Date on which entitlement is to begin**

**64.** 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.

(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.

### **Regulation 65 - Date on which change of circumstances is to take effect**

#### **Date on which change of circumstances is to take effect**

**65.**—(1) Except in cases where regulation 48 (disregard of changes in tax, contributions, etc) applies and subject to the following provisions of this regulation and regulation 151 (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.

(2) For the purposes of determining the date on which a superseding decision is to take effect in accordance with paragraph (1), in a case where—

(a) the change of circumstances is a change of circumstances that is required by regulations to be notified,

(b) that change of circumstances is notified more than one month after it occurs, or such longer period as may be allowed under part 3a; and

(c) the superseding decision is advantageous to the claimant,

the date of notification of the change of circumstances shall be treated as the date on which the change of circumstances occurred.

(2)(a) The grounds where a longer period may be allowed are that there are special circumstances that prevented the change to be notified within a month of it occurring. An application must be made, and in determining this, the authority should have regard to the principle that, the longer the application is made, the more compelling these circumstances must be.

(3) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

(4) 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.

(5) 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 12 of that Act it takes effect from the day on which the change in amount has effect.

(6) 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.

(7) 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.

(8) 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.

(9) 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 SSCBA, 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.

(10) 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.

(11) Sub-paragraph (11) applies if—

(a) the applicant or the applicant's partner has attained the age of 65; and

(b) 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 regulation 140 (non-dependent deductions) increased.

(12) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

(13) 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.



(14) 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.

### **Part 8 - Procedure by which a person may apply for a reduction under an authority's scheme (Regulations 66 - 73)**

**66.** An application may be made—

- (a) in writing, to the designated office on a properly completed form.
- (b) by means of an electronic communication in accordance with regulations 162 to 168, or
- (c) where an authority has published a telephone number for the purpose of receiving such applications, by telephone.

**67.** —(1) 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.

(2) An application made on a form provided by an authority is properly completed if it is completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

**68.**—(1) If an application made by electronic communication is defective an authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

**69.** 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.

**70.—**(1) If an application made by telephone is defective an authority must 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.

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

**71.—**(1) Subject to sub-paragraph (5), the date on which an application is made is—

(a) 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;

(b) 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;

(c) 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;

(d) except where paragraph (c) 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;

(e) in any other case, the date on which an application is received at the designated office.

(2) For the purposes only of sub-paragraph (1)(a) 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.

(3) Where the defect referred to in regulation 21 (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.

(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.

(5) The conditions are that—

(a) where regulation 18(a) (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 regulation 18(b) (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 regulation 18 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.

(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.

(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) 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 job seekers allowance or an employment and support allowance.

### **Amendment and withdrawal of application**

**72.—**(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.

(2) Where the application was made by telephone in accordance with regulations 15 to 21, the amendment may also be made by telephone.

(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.

(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.

(5) Where the application was made by telephone in accordance with regulations 15 to 21, the withdrawal may also be made by telephone.

(6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

(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.

### **Information and evidence**

**73.**—(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.

(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.

(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;

(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.

(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.

(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.

(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 regulation 152 (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 regulation 152, 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.

(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 or the London Bombings Relief Charitable Fund;

(b) a payment which is disregarded under regulation 108 (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 regulation 140(10).

(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) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

#### **Regulation 74 Duty to notify changes of circumstances**

**74.**—(1) Subject to sub-paragraphs (3), (6) and (7), 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.

(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 regulations 15 to 21 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.

(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.

(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.

(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.

(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.

(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.

(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 regulation 32 (circumstances in which income of a non-dependant is to be treated as applicant's); or

(ii) a person to whom regulation 34(2)(e) refers (partner treated as member of the household under regulation 30),

and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

(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).

## **Part 9 - Decisions and Awards**

### **Regulation 75: Decision by authority**

**75.** An authority must make a decision on an application under its scheme within 14 days of regulations 14 and 24 and regulations 15 to 21 being satisfied, or as soon as reasonably practicable thereafter.

### **Regulation 76: Notification of decision**

**76.—(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.

(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 regulation 152(1);
- (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.

(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.

(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.

(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.

(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.

(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).

(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—
  - (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 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, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

(c) a person appointed by an authority under regulation 14(3) (persons appointed to act for a person unable to act).

### **Regulation 76A - Payment where there is joint and several liability**

**76A.—(1) Where—**

(a) a person is entitled to a reduction under an authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;

(b) the person entitled to the reduction is jointly and severally liable for the council tax; and

(c) 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 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.

(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.

(3) Where a person other than a person who is entitled to a reduction under an authority's scheme made the application and that first person is a person acting pursuant to an appointment under regulation 14(3) or is treated as having been so appointed by virtue of regulation 14(4), the amount of the reduction may be paid to that person.

## **Part 10 - Awards or payments of benefit (Regulations 77-78)**

### **Regulation 77**

(1) Where—

(a) a person is entitled to a reduction under an authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;

(b) the person entitled to the reduction is jointly and severally liable for the council tax; and

(c) 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(1) 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.

(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.

(3) Where a person other than a person who is entitled to a reduction under an authority's 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.

### **Regulation 78 Offsetting**

(1) Where a person has been allowed or paid a sum of council tax benefit 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.

(2) Where an amount has been deducted under regulation 89(1) an equivalent sum shall be offset against any arrears of entitlement under the subsequent determination.

(3) No amount may be offset under paragraph (1) which has been determined to be excess benefit within the meaning of regulation 82 (meaning of excess benefit).

### **Regulation 79 – 81**

There are no regulations 79 - 81

### **Part 11 - Excess Benefit (Regulations 82-90)**

#### **Meaning of excess reductions**

**82.** - In this Part "excess reduction" means any amount which has been allowed by way of a council tax reduction and to which there was no entitlement under these regulations, whether on the initial decision or on a subsequent change of circumstance and includes any excess which arises by reason of a reduction in the amount a person is liable to pay in respect of council tax in consequence of –

(a) regulations made under section 13 of the 1992 Act (reduction in the amount of a persons council tax); or

(b) any discount to which that tax is subject by virtue of section 11 or 79 of the Act.

### **Regulation 83 Recoverable excess reduction**

**83.** - (1) Any excess reduction, except benefit to which paragraph (2) applies, shall be recoverable.

(2) Subject to paragraph (4) and (5) and excepting any excess reduction arising in consequence of a reduction in tax or substitution to which regulation 169 refers, this paragraph applies to excess reduction allowed in consequence of an official error, where the claimant or a person acting on his behalf or any other person to whom the excess reduction is allowed could not, at the time the reduction was allowed or upon the receipt of any notice relating to the allowance of that reduction, reasonably have been expected to realise that it was excess reduction.

(3) In paragraph (2), “excess reduction allowed in consequence of an official error” means an overpayment caused by a mistake made whether in the form of an act or omission by—

(a) the relevant authority;

(b) an officer or person acting for that authority;

(c) an officer of—

(i) the Department for Work and Pensions; or

(ii) the Commissioners for Her Majesty’s Revenue and Customs,

acting as such; or

(d) a person providing services to the Department or to the Commissioners referred to in (c), where the claimant, a person acting on his behalf or any other person to whom the payment is made, did not cause or materially contribute to that mistake, act or omission.

(4) Paragraph (2) shall not apply with respect to excess reduction to which regulation 169(a) and (b) refers.

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

### **Regulation 84 Authority by which recovery may be made**

The relevant authority which allowed the recoverable excess reduction may recover it.

### **Regulation 85 Person from whom recovery may be sought**

Recoverable excess reduction shall be due from the claimant or the person to whom the excess benefit was allowed.

### **Regulation 86 Methods of recovery**

(1) Without prejudice to any other method of recovery a relevant authority may recover any recoverable excess reduction by any of the methods specified in paragraph (2) and (3) or any combination of those methods.

(2) Excess reduction may be recovered—

(a) by payment by or on behalf of the claimant or the person to whom the excess benefit was allowed; or

(b) by an addition being made by the relevant authority to any amount payable in respect of the council tax concerned.

### **Regulation 87 Further provision as to recovery of excess reduction**

In addition to the methods for recovery of excess benefit which are specified in regulation 86, any sum or part of a sum which is due from the person concerned and which is not paid within 21 days of his being notified of the amount that is due, shall be recoverable in a court of competent jurisdiction by the authority to which the excess benefit is due.

### **Regulation 88 Diminution of capital**

(1) Where in the case of recoverable excess reduction, in consequence of a misrepresentation or failure to disclose a material fact (in either case whether fraudulent or otherwise) as to a person's capital, or an error, other than one to which regulation 83(2) (effect of official error) refers, as to the amount of a person's capital, the excess benefit was in respect of a period ("the excess benefit period") of more than 13 benefit weeks, the relevant authority shall, for the purpose only of calculating the amount of excess—

(a) at the end of the first 13 benefit weeks of the reduction benefit period, treat the amount of the capital as having been reduced by the amount of excess council tax benefit allowed during those 13 weeks;

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

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

### **Regulation 89 Sums to be deducted in calculated recoverable excess reduction**

(1) In calculating the amount of recoverable excess reduction, the relevant authority shall deduct any amount of council tax reduction which should have been determined to be payable to the person from whom the excess benefit is recoverable or their partner in respect of the whole or part of the overpayment period—

(a) on the basis of the claim as presented to the authority;

(b) on the basis of the claim as it would have appeared had any misrepresentation or non-disclosure been remedied before the decision; or

(c) on the basis of the claim as it would have appeared if any change of circumstances had been notified at the time that change occurred.

(2) In calculating the amount of recoverable excess reduction, the relevant authority may deduct so much of any payment of council tax in respect of the excess benefit period which exceeds the amount, if any, which the claimant was liable to pay for that period under the original erroneous decision.

## **Regulation 90**

There is no Regulation 90

## **Part 12 - Information - Section 1- Claims and information (Regs 91-95)**

### **Regulation 91 Interpretation**

In this Section—

"local authority" means an authority administering council tax benefit;

"relevant authority" means—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State; or
- (c) a county council;

"relevant information" means information or evidence relating to the administration of claims to or awards of council tax benefit.

### **Regulation 92 Collection of information**

(1) The Secretary of State, 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 benefit; or
- (b) other persons in connection with such claims.

(2) In paragraph (1) references to persons who have made claims for council tax benefit include persons to whom awards of benefit have been made on those claims.

(3) Where a county council has made an arrangement with a local authority, or a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit, to receive and obtain information and evidence relating to claims for council tax benefit, the council may receive or obtain the information or evidence from—

- (a) persons making claims for council tax benefit; or
- (b) other persons in connection with such claims.

(4) A county council may receive information relating to an award of council tax benefit which is supplied by—

- (a) the person to whom an award has been made; or
- (b) other persons in connection with the award.

### **Regulation 92A Verifying information**

A relevant authority may verify relevant information supplied to, or obtained by, the authority in accordance with regulation 92.

### **Regulation 93 Recording and holding information**



A relevant 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 benefit.

#### **Regulation 94 Forwarding of information**

A relevant authority which holds relevant information—

(a) shall forward it to the person or authority for the time being administering claims to or awards of council tax benefit to which the relevant information relates, being—

(i) a local authority;

(ii) a person providing services to a local authority; or

(iii) a person authorised to exercise any function of a local authority relating to council tax benefit;

and

(b) may, if the relevant authority is the Secretary of State or a person providing services to the Secretary of State, continue to hold a record of such information, whether as supplied or obtained or recorded, for such period as he considers appropriate.

#### **Regulation 95 Request for information**

A relevant authority which holds information or evidence relating to social security matters shall forward such information or evidence as may be requested to the person or authority making that request, provided that—

(a) the request is made by—

(i) a local authority;

(ii) a person providing services to a local authority; or

(iii) a person authorised to exercise any function of a local authority relating to council tax benefit;

and

(b) the information or evidence requested includes relevant information;

(c) the relevant authority is able to provide the information or evidence requested in the form in which it was originally supplied or obtained; and

(d) provision of the information or evidence requested is considered necessary by the relevant authority to the proper performance by a local authority of its functions relating to council tax benefit.

### **Part 12 - Information - Section 2 - Information between authorities etc. (Regulations 96-98)**

#### **Regulation 96 Information to be supplied by an authority to another authority**

(1) This regulation applies for the purposes of section 128A of the Administration Act (duty of an authority to disclose information to another authority).

(2) Information is to be disclosed by one authority to another where—

(a) there is a mover who is or was allowed council tax benefit by appropriate Authority “A”;

(b) the mover is liable to pay council tax in respect of the new dwelling to Authority “B”; and

(c) the mover is entitled to an extended payment in accordance with regulation 60.

(3) Authority A shall disclose to Authority B—

- (a) the amount of the extended payment calculated in accordance with **CTRS (Prescribed Requirements) Schedule 8, Part 1** (extended payment – movers);
  - (b) the date that entitlement to the extended payment will commence or has commenced;
  - (c) the date that entitlement to the extended payment ceased or will cease;
  - (d) the date of the move from Authority A to Authority B;
  - (e) where the extended payment will be paid by Authority A to Authority B in accordance with **CTRS (Prescribed Requirements) Schedule 8, Part 1** (payment of the extended payment to the second authority)—
    - (i) the amount that Authority A will pay to Authority B in accordance with that paragraph; and
    - (ii) any other information required by Authority B to enable Authority A to make the payment in accordance with that paragraph; and
  - (f) if any deduction was being made in respect of a recoverable overpayment.
- (4) Authority B shall disclose to Authority A—
- (a) if a mover’s liability to pay council tax for the new dwelling is to Authority B; and
  - (b) where the extended payment will be paid by Authority A to Authority B in accordance with regulation **CTRS (Prescribed Requirements) Schedule 8, Part 1** )—
    - (i) any information required by Authority A to enable Authority A to make the payment in accordance with that paragraph; and
    - (ii) the date on which Authority B receives any such payment.

**Regulation 97 Supply of information - extended payments (qualifying contributory benefits)**

- (1) This regulation applies for the purposes of section 122E(3) of the Administration Act (duty of an authority to supply information to another authority).
- (2) Information is to be disclosed by one authority to another where—
- (a) there is a mover who is or was allowed council tax benefit by appropriate Authority “A”;
  - (b) the mover is liable to pay council tax in respect of the new dwelling to Authority “B”; and
  - (c) the mover is entitled to an extended payment (qualifying contributory benefits) in accordance with regulation 61.
- (3) Authority A shall disclose to Authority B—
- (a) the mover is entitled to an extended payment (qualifying contributory benefits) in accordance with regulation 61.
  - (b) the date that entitlement to the extended payment will commence or has commenced;
  - (c) the date that entitlement to the extended payment ceased or will cease;
  - (d) the date of the move from Authority A to Authority B;
  - (e) where the extended payment will be paid by Authority A to Authority B in accordance with regulation 61C(3)(a) (payment of the extended payment to the second authority)—
    - (i) the amount that Authority A will pay to Authority B in accordance with that paragraph; and
    - (ii) any other information required by Authority B to enable Authority A to make the payment in accordance with that paragraph; and
  - (f) if any deduction was being made in respect of a recoverable overpayment.
- (4) Authority B shall disclose to Authority A—
- (a) if a mover’s liability to pay council tax for the new dwelling is to Authority B; and
  - (b) where the extended payment will be paid by Authority A to Authority B in accordance with regulation 61C(3)(a)—

- (i) any information required by Authority A to enable Authority A to make the payment in accordance with that paragraph; and
- (ii) the date on which Authority B receives any such payment.

**Regulation 98 Supply of benefit administration information between authorities**

(1) For the purpose of section 122E(3) of the Administration Act (supply of information between authorities administering benefit) the circumstances in which information is to be supplied and the information to be supplied are set out in paragraph (2).

(2) Where the functions of an authority (“Authority A”) relating to council tax benefit are being exercised, wholly or in part, by another authority (“Authority B”)—

(a) Authority A must supply to Authority B any benefit administration information it holds which is relevant to, and necessary for, Authority B to exercise those functions; and

(b) Authority B must supply to Authority A any benefit administration information it holds which is relevant to, and necessary for, Authority A to exercise those functions.

(3) The circumstances in which paragraph (2) applies include cases where the authorities have agreed to discharge functions jointly.

(4) In paragraph (2), “Authority A” and “Authority B” include any person authorised to exercise functions relating to council tax benefit on behalf of the authority in question.

(5) This regulation shall not apply if the person or authority to whom the information is to be supplied agrees that the information need not be supplied.

**Schedules (1-9)**

**Schedule 1 Applicable amounts**

Regulation 12

PART 1

Personal Allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of regulations 12(a) and **CTRS (Prescribed Requirements) Regulations, regulation 5**

Column (1)	Column (2)
Person or couple Amount	
(1) A single claimant who— (1)	
(a) is entitled to main phase employment and support allowance;	(a) £71.00;
(b) is aged not less than 25;	(b) £71.00.
(c) is aged not less than 18 but less than 25;	(c) £56.25.
(2) Lone parent.	(2) £71.00.
(3) Couple.	(3) £111.45.

1A. For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if—

(a) paragraph 21 is satisfied in relation to the claimant; or

(b) the claimant 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).

2.— (1) The amounts specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of regulations 12(b) and 13(c)—

Column (1)	Column (2)
Child or young person Amount	
Persons 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) £64.99;
(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) £64.99.

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

## PART 2

### Family Premium

1.—  
(1), the amount for the purposes of regulations 12 in respect of a family of which at least one member is a child or young person shall be £17.40

## PART 3

### Premiums

4. Except as provided in paragraph 5, the premiums specified in Part 4 of this Schedule shall, for the purposes of regulations 12(d) be applicable to a claimant who satisfies the condition specified in paragraphs 8 to 17 in respect of that premium.

5. Subject to paragraph 6, where a claimant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.

6. The following premiums, namely—

- (a) a severe disability premium to which paragraph 14 applies;
  - (b) an enhanced disability premium to which paragraph 15 applies;
  - (c) a disabled child premium to which paragraph 16 applies; and
  - (d) a carer premium to which paragraph 17 applies,
- may be applicable in addition to any other premium which may apply under this Schedule.

7.—

(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to a claimant under this Part, a person shall be treated as being in receipt of any benefit for—

(a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and

(b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the 1973 Act or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.

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

(para 8 revoked)

(paras 9, 10 and 11 omitted)

#### Disability Premium

12. The condition is that—

(a) where the claimant is a single claimant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 13 is satisfied; or

(b) where the claimant has a partner, either—

(i) the claimant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 13 (1)(a) 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

13.—

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

(a) the claimant or, as the case may be, his partner—

(i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal 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 Regulations, mobility supplement, long-term incapacity benefit under Part 2 of the Act or severe disablement allowance under Part 3 of the Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or

(ii) was in receipt of long-term incapacity benefit under Part 2 of the Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the claimant has since remained continuously entitled to 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, disability living allowance or personal independence payment but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the Act or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 18(11)(e) (treatment of child care charges); or

(iv) is provided by the Secretary of State with an invalid carriage or other vehicle under section 5(2) of the National Health Service Act 1977 (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 claimant—

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work); and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;

(bb) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(v), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).

(5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act 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) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.

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

(8) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training

provided under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990.

(9) In the case of a claimant 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 8 weeks in sub-paragraph (3); and
  - (b) the reference to a period of 56 days in sub-paragraph (6),
- shall in each case be treated as a reference to a period of 104 weeks.

(10) The claimant is not entitled to the disability premium if the claimant has, or is treated as having, limited capability for work.

### Severe Disability Premium

**11.—**(1) The condition is that the applicant is a severely disabled person.

(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 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 SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act

2012, or an AFIP; 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 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 SSCBA, or the daily living component of personal independence payment paid at either rate

### Enhanced disability premium

**12.—**

(.—(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 SSCBA 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

(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.

(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 SSCBA (entitlement after death of child or qualifying young person).

### Disabled Child Premium

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

(a) is in receipt of disability living allowance or personal independence payment is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or

(b) is blind or treated as blind within the meaning of paragraph 13; or

(c) is a child or young person in respect of whom section 145A of the Act (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 claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.

### Carer Premium

**14.**—(1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.

(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).

(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.

(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.

### Persons in receipt of concessionary payments

15. For the purpose of determining whether a premium is applicable to a person under regulations 132 to 135, 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.

### Persons in receipt of benefit for another

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

## PART 4

### Amounts of premiums specified in Part 3

#### Premium Amount

20.—

(1)

(2)

(3)

(4)

(5) Disability Premium— (5)

(a) where the claimant satisfies the condition in paragraph 12(a); (a) £30.35;

(b) where the claimant satisfies the condition in paragraph 12(b). (b) £43.25.

(6) Severe Disability Premium— (6)

(a) where the claimant satisfies the condition in paragraph 14(2)(a); (a) £58.20;

(b) where the claimant satisfies the condition in paragraph 14(2)(b)—

(i) in a case where there is someone in receipt of carer's allowance (b)(i) £58.20;

or if he or any partner satisfies that condition only by virtue of paragraph 14(5);

- (ii) in a case where there is no one in receipt of such an allowance. (b)(ii) £116.40.
- (7) Disabled Child Premium. (7)  
£56.63 in respect of each child or young person in respect of whom the condition specified in paragraph 16 of Part 3 of this Schedule is satisfied.
- (8) Carer Premium. (8) £32.60 in respect of each person who satisfies the condition specified in paragraph 17.
- (9) Enhanced Disability Premium. (9)  
(a) £22.89 in respect of each child or young person in respect of whom the conditions specified in paragraph 15 are satisfied;  
(b) £14.80 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 paragraph 15 are satisfied;  
(c) £21.30 where the claimant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15 are satisfied in respect of a member of that couple or polygamous marriage.

## PART 5

### The components

21. Subject to paragraph 22 the claimant is entitled to one, but not both, of the components in paragraph 23 or 24 if—
- (a) the claimant or the claimant's partner has made a claim for employment and support allowance;
  - (b) the Secretary of State has decided that the claimant or the claimant's 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.

21A. Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 and 24 if the claimant 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).

22.—

(1) The claimant has no entitlement under paragraph 23 or 24 if the claimant is entitled to the disability premium under paragraphs 12 and 13.

(2) Where the claimant and the claimant's partner each satisfies paragraph 23 or 24, the component to be included in the claimant's applicable amount is that which relates to the claimant.

The work-related activity component

23. The claimant is entitled to the work-related activity component if the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work.

The support component

24. The claimant is entitled to the support component if the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work-related activity.

## PART 6

Amount of components

25. The amount of the work-related activity component is £28.15.

26. The amount of the support component is £34.05.

## PART 7

Transitional Addition

27.—

(1) The claimant is entitled to the transitional addition calculated in accordance with paragraph 30 where the claimant or the claimant's 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.

(2) The claimant'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 claimant's award of council tax benefit;
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

28.—

(1) This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition, ends by virtue of the termination of the claimant's award of council tax benefit, under—
  - (i) paragraph 27(2)(b);
  - (ii) sub-paragraph (3)(b) of this paragraph; or
  - (iii) paragraph 29(3)(b);
- (b) within 12 weeks of that termination but before 5th April 2020 the claimant again becomes entitled to council tax benefit;
- (c) in the benefit week in which the claimant again becomes entitled to council tax benefit the relevant person is entitled to an employment and support allowance which is not income-related; and
- (d)
- (e) at the date on which the claimant again becomes entitled to council tax benefit, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day on which the claimant again becomes entitled to council tax benefit, to a transitional addition of the amount of the transitional addition that would have applied had the claimant'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.

(3) The claimant'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 claimant's award of council tax benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

29.—

(1) This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
  - (i) paragraph 27(2)(c);
  - (ii) paragraph 28(3)(c); or
  - (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th 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 claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for council tax benefit purposes, to a transitional addition of the amount of the transitional addition that would have applied had the claimant'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.

(3) The claimant'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 claimant's award of council tax benefit;

(c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);

(d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;

(e) 5th April 2020.

## PART 8

### Amount of transitional addition

#### 30.—

(1) Subject to paragraph 31, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(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.

(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.

(4) In this paragraph and paragraph 31, "basic amount" means the aggregate of such amounts as may apply in the claimant's case in accordance with regulation 12(a) to (e) or regulation 13(a) to (f).

#### 31.—

(1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the claimant'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

## **Schedule 2 Amount of alternative maximum council tax benefit**

### **Regulation 62**

1.—

(1) Subject to paragraphs 2 and 3, the alternative maximum council tax benefit in respect of a day for the purpose of regulation 62 shall be determined in accordance with the following Table and in this Table -

(a) "second adult" means any person or persons residing with the claimant to whom section 131(6) of the Act applies; and

(b) "persons to whom regulation 45(2) applies" includes any person to whom that regulation 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 or 78 of the 1992 Act less -

(a) any reductions made in consequence of any enactment in, or under, the 1992 Act; 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.

(1)	(2)
Second adult	Alternative maximum council tax benefit
(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;	(a) 25 per cent. of the council tax due in respect of that day;
(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—	(b)
(i) is less than £180.00 per week;	(i) 15 per cent. of the council tax due in respect of that day;
(ii) is not less than £180.00 per week but	(ii) 7.5 per cent. of the council tax due in respect of that day.

less than £235.00 per week.

(c) Where the dwelling would be wholly occupied in respect of that day. (c) 100 per cent. of the council tax due in

by one or more persons to whom regulation 45(2) 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.

2. In determining a second adult's gross income for the purposes of this Schedule, there shall be disregarded from that income—

(a) any attendance allowance, or any disability living allowance under section 71 of the Act;

(b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which had his income fallen to be calculated under regulation 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and

(c) any payment which had his income fallen to be calculated under regulation 30 would have been disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).

3. Where there are two or more second adults residing with the claimant for benefit and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 of the 1992 Act, his income shall be disregarded in determining the amount of any alternative maximum council tax benefit, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

### **Schedule 3 Sums to be disregarded in the calculation of earnings**

Regulation 26(2) and 28(2)

1. In the case of a claimant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

(i) the employment has been terminated because of retirement; and

(ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to council tax benefit the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

- (i) any payment of the nature described in—
    - (aa) regulation 25(1)(e), or
    - (bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and
  - (ii) any award, sum or payment of the nature described in—
    - (aa) regulation 25(1)(g) or (h), or
    - (bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),
      - including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;
  - (c) where before the first day of entitlement to council tax benefit—
    - (i) the employment has not been terminated, but
    - (ii) the claimant is not engaged in remunerative work,
      - any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or regulation 25(1)(i) or (j).
2. In the case of a claimant who, before the first day of entitlement to council tax benefit—
- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
  - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated, any earnings paid or due to be paid in respect of that employment except—
    - (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb) applies;
    - (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or regulation 25(1)(i) or (j).
- 2A. In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 27(3) and (4) (earnings of self-employed earners) apply.
- 3.—
- (1) In a case to which this paragraph applies and paragraph 4 does not apply, £20; but notwithstanding regulation 15 (calculation of income and capital of members of a claimant's family and of a polygamous marriage) if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £20.
  - (2) This paragraph applies where the claimant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 1 (applicable amounts).
  - (3) This paragraph applies where—
    - (a) the claimant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 1; and
    - (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.
  - (4)



(5)

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

5.—

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

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

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

(a) specified in paragraph 8(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 5 exceed £20;

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

7. In a case where paragraphs 3, 5, 6 and 8 do not apply to the claimant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 15 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £10.

8.—

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

(a) 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;

(b) 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;

(c) an auxiliary coastguard in respect of coast rescue activities;

(d) a person engaged part-time in the manning or launching of a life boat;

(e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding regulation 15 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the claimant's partner is engaged in employment—

(a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the claimant's earnings disregarded under this paragraph exceed £20;

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

9. Where the claimant is engaged in one or more employments specified in paragraph 8(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single claimant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 8 exceed £20.

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

10A.—

(1) Where—

(a) the claimant (or if the claimant 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 12 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 3 to 10 do not apply; but in any case where the claimant is a lone parent, and the specified amount would be less than the amount specified in paragraph 4, then paragraph 4 applies instead of this paragraph.

(3) Notwithstanding regulation 15 (calculation of income and capital of members of claimant'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).

(4) Where A's earnings are less than the specified amount, there shall 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; or

(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.

(6) "Exempt work" means work of the kind described in—

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations; 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 a claimant 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).

11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 19 or 20 of Schedule 4 had the claimant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

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

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

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

15. Any earnings of a child or young person.

16.—

(1) In a case where the claimant is a person who satisfies at least one of the conditions set out in subparagraph (2), and his net earnings equal or exceed the total of the amounts set out in subparagraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 10A of this Schedule shall be increased by £17.10.

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

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

(b) the claimant—

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

(ii) is a member of a couple and—

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

(bb) his applicable amount includes a family premium under paragraph 3 of Schedule 1; or

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

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

(aa) the claimant's applicable amount includes a disability premium under paragraph 12, the work-related activity component under paragraph 23 or the support component under paragraph 24 of Schedule 1 respectively;

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

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

(3) The following are the amounts referred to in subparagraph (1)—

(a) the amount calculated as disregardable from the claimant's earnings under paragraphs 3 to 10A of this Schedule;

(b) the amount of child care charges calculated as deductible under regulation 17(1)(c); and

(c) £17.10.

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

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

#### **Schedule 4 Sums to be disregarded in the calculation of income other than earnings**

##### Regulation 30(2)

A1. Any payment made to the claimant 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.

A2. Any payment made to the claimant 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.

A3. Any payment made to the claimant 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 regulation 30 (calculation of income other than earnings).

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

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

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 32(8) (notional income).

2A. Any payment in respect of expenses arising out of the claimant’s participation in a service user group.

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

4. Where a claimant is on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance the whole of his income.

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

6. Where the claimant, or the person who was the partner of the claimant on 31st 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 5th 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.

7. Any disability living allowance or personal independence payment.

8. 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.

9. 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.

10. Any attendance allowance.

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

12.—

(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

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(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).

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

14.—

(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 claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

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

15.—

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

- (a) a charitable payment;
  - (b) a voluntary payment;
  - (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;
  - (d) a payment under an annuity purchased—
    - (i) pursuant to any agreement or court order to make payments to the claimant; or
    - (ii) from funds derived from a payment made, in consequence of any personal injury to the claimant; or
  - (e) a payment (not falling within sub-paragraphs (a) to (d) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.
- (2) Sub-paragraph (1) shall not apply to a payment which is made or due to be made by—
- (a) a former partner of the claimant, or a former partner of any member of the claimant's family; or
  - (b) the parent of a child or young person where that child or young person is a member of the claimant's family.

16. Subject to paragraph 35, all 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;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

17. 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).

18.—

(1) Any income derived from capital to which the claimant is or is treated under regulation 41 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28 of Schedule 5.

(2) Income derived from capital disregarded under paragraphs 2, 4 or 25 to 28 of Schedule 5 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 claimant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of “water charges” in regulation 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as his home”.

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

(a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998, 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.

20.—

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

(a) is not in receipt of any award, grant or student loan in respect of that education; or

(b) is in receipt of an award under section 2 of the Education Act 1962 (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 claimant makes payments by way of a contribution towards the student’s maintenance, other than a parental contribution falling within paragraph 19, an amount specified in sub-paragraph (2) in respect of each week during the student’s term.

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

(a) the weekly amount of the payments; or

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

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

22. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 21 or 23 refers and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

(a) 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.

23.—

(1) Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for 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.

(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.

24.—

(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.

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

25. 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.

26.—

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

(a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 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);

(b)

(c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance);

(ba) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);

(d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);

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

(3)

27. Any payment made to the claimant with whom a person is accommodated by virtue of arrangements made—

(a) by a local authority under—



- (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
  - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
  - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

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

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006.

29. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

29A.—

(1) Subject to sub-paragraph (2), any payment (or part payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the claimant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the claimant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.

30.—

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

- (a) on a loan which is secured on the dwelling which the claimant occupies as his home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
- (b) meet any amount due by way of premiums on—
  - (i) that policy; or

(ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

31. Any payment of income which by virtue of regulation 36 (income treated as capital) is to be treated as capital.

32. Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).

33. Any payment under Part 10 of the Act (Christmas bonus for pensioners).

34. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

35. The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 15(2) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 47(2)(b) and regulation 48(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), regulation 51(2) (treatment of student loans), regulation 52(3) (treatment of payments from access funds) and paragraphs 16 and 17 shall in no case exceed £20 per week.

36.—

(1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

(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 to which subparagraph (1) refers and which is made to or for the benefit of—

(a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;

(b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

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

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

(b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

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

(a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

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

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he 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

(b) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

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

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

37. Any housing benefit.

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

39.

40.

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

43. Any payment in consequence of a reduction of council tax under section 13 or section 80 of the 1992 Act (reduction of liability for council tax).

44.

45.—

(1) Any payment or repayment made—

(a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).

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

46. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

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

48.—

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

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

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

48A.—

(1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the claimant's family, except where the person making the payment is the claimant or the claimant's partner.

(2) In paragraph (1)—

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

(a) the Child Support Act 1991;

(b) the Child Support (Northern Ireland) Order 1991;

(c) a court order;

(d) a consent order;

(e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

49.

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

51. Any guardian's allowance.

52.—

(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability

supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

53. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (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.

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

55.—

(1) Any payment which is—

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

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

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

(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

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

55A. Any council tax benefit to which the claimant is entitled.

56. Except in a case which falls under sub-paragraph (1) of paragraph 16 of Schedule 3, where the claimant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

56A.

56B.

57. Any payment made under section 12B of the Social Work (Scotland) Act 1968 or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).

58.—

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

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

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

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account.

59.—

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

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

(3) For the purposes of sub-paragraph (2) “food’ does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

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

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

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

63.—

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

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

64.

65.

66. Any payment of child benefit.

## **Schedule 5 Capital to be disregarded**

### **Regulation 34(2)**

A1. Any payment made to the claimant 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 Scheme but only for 52 weeks beginning with the date of receipt of the payment.

A2. Any payment made to the claimant 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 but only for 52 weeks beginning with the date of receipt of the payment.

A3. Any payment made to the claimant 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 but only for 52 weeks beginning with the date of receipt of the payment.

1. The dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding regulation 15 (calculation of income and capital of members of claimant’s family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

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

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

4. Any premises occupied in whole or in part—

(a) by a partner or relative of a single claimant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;

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

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

6. Where the claimant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the claimant's capital.

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

8.—

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

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

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

(b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

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

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

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

9.—

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

(a) any payment specified in paragraphs 7, 9 or 10 of Schedule 4;

(b) an income-related benefit under Part 7 of the Act;

(c) an income-based jobseeker's allowance;

(d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(c);

(e) working tax credit and child tax credit,

(f) an income-related employment and support allowance.

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

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

(a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and

(b) received by the claimant in full on or after 14th October 2001,

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

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

(a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the claimant—

(i) is the person who received the relevant sum; or

(ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.

10. Any sum—

(a) paid to the claimant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or

(b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

11. Any sum—

(a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985(a) or section 338(1) of the Housing (Scotland) Act 1987(b) as a condition of occupying the home;

(b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the claimant to complete the purchase.

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

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



14. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant or claimant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

14A.—

(1) Any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

(2) But sub-paragraph (1)—

(a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;

(b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);

(c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;

(d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).

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

16. The value of the right to receive any income which is disregarded under paragraph 13 of Schedule 3 or paragraph 25 of Schedule 4.

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

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

19. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

19A.—

(1) Subject to sub-paragraph (2), any payment (or part payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the claimant.

(2) Sub-paragraph (1) applies only where A—

(a) was formerly in the claimant's care, and

(b) is aged 18 or over, and

(c) continues to live with the claimant.

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

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

22. Any capital which by virtue of regulation 31 or 51 (capital treated as income, treatment of student loans) is to be treated as income.

23. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

24.—

(1) Any payment made under or by 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.

(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 to which subparagraph (1) refers and which is made to or for the benefit of—

(a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;

(b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

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

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

(b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

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

(a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either—

(i) to that person's parent or step-parent; or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

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

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

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either—

(i) to that person's parent or step-parent; or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

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

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

25.—

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

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

26. Any premises where the claimant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

27. Any premises which the claimant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

28. Any premises which the claimant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

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

30.

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

32. The value of any funds held under a personal pension scheme.

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

34. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

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

36.

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

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

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

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

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

39. Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

40.—

(1) Any payment or repayment made—

(a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

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

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

41. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

41A. Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).

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

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

44.

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

46.—

(1) Subject to sub-paragraph (2), where a claimant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum council tax benefit), the whole of his capital.

(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Act the claimant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum council tax benefit), sub-paragraph (1) shall not have effect.

47. —

(1) Any sum of capital to which sub-paragraph (2) applies and—

(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;

(b) which can only be disposed of by order or direction of any such court; or

(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

(a) an award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

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

(a) award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

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

50.

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

52.—

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

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the claimant or, where the claimant is a member of a family, any

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

(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

53.—

(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;

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;

(iii) 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;

(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

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(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).

53A.

53B.

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

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

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

(a) the claimant;

(b) the claimant's partner;

(c) the claimant's deceased spouse or deceased civil partner; or

(d) the claimant's partner's deceased spouse or deceased civil partner,

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

57.—

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

(a) a diagnosed person;

(b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

(c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or

(d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

(a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;

(c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—

(i) two years after that date; or

(ii) on the day before the day on which that person—

(aa) ceases receiving full-time education; or

(bb) attains the age of 20,  
whichever is the latest.

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

(a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

(b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or

(c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

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

(4) Where a payment as referred to in sub-paragraph (3) is made to—

(a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or

(c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—

(i) two years after that date; or

(ii) on the day before the day on which that person—

(aa) ceases receiving full-time education; or

(bb) attains the age of 20,  
whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

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

(6) In this paragraph—

"diagnosed person" means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

"relevant trust" means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

"trust payment" means a payment under a relevant trust.

58. The amount of any payment, other than a war pension, to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or deceased civil partner or the claimant's partner's deceased spouse or deceased civil partner—

- (a) was a slave labourer or a forced labourer;
  - (b) had suffered property loss or had suffered personal injury; or
  - (c) was a parent of a child who had died,
- during the Second World War.

59.—

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

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

60. Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968 or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care).

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

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

## **Schedule 6 – Electronic Communication:**

### **Interpretation**

1. In this Schedule—

"**information**" includes an application, a certificate, notice or other evidence; and

"**official computer system**" means a computer system maintained by or on behalf of an authority for sending, receiving, processing or storing of any information.



## Conditions for the use of electronic communication

2.—(1) An authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme.

(2) A person other than that authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.

(4) The second condition is that the person uses an approved method of—

(a) authenticating the identity of the sender of the communication;

(b) electronic communication;

(c) authenticating any application or notice delivered by means of an electronic communication; and

(d) subject to sub-paragraph (7), submitting to the authority any information.

(5) The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes of this Part.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.

(7) Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.

(8) In this paragraph “**approved**” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part.

### **Use of intermediaries**

3. The authority may use intermediaries in connection with—

- (a) the delivery of any information by means of an electronic communication; and
  - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

### **Effect of delivering information by means of electronic communication**

4.—(1) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority's scheme on the day the conditions imposed—

- (a) by this Part; and
  - (b) by or under an enactment,
- are satisfied.

(2) An authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

(3) Information may not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

### **Proof of identity of sender or recipient of information**

5. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

- (a) the sender of any information delivered by means of an electronic communication to an official computer system; or
- (b) 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.

### **Proof of delivery of information**

6.—(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.

(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.

(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.

### **Proof of content of information**

7. 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.

## **Schedule 7**

### **Appeals and Discretionary Reductions**

#### **Procedure by which a person may appeal against certain decisions of the authority**

1.—(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 within a month, or such longer period as may be allowed under paragraph 1(a) of that decision stating the matter by which, and the grounds on which, he is aggrieved.

(1)(a) The grounds where a longer period may be allowed, up to a maximum of 13 months, are that there are special circumstances that prevented the change to be notified within a

month of it occurring. An application must be made, and in determining this, the authority should have regard to the principle that, the longer the application is made, the more compelling these circumstances must be.

(2) The authority must—

(a) consider the matter to which the notice relates;

(b) notify the aggrieved person in writing—

(i) that the ground is not well founded, giving reasons for that belief; or

(ii) that steps have been taken to deal with the grievance, stating the steps taken.

(3) Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

### **Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act**

**2.—**(1) An application to an authority for a reduction under section 13A(1)(c) of the 1992 Act may be made—

(a) in writing,

(b) by means of an electronic communication in accordance with regulations 162 to 168, or

(c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

(2) Where—

(a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and

(b) a person in that class would otherwise be entitled to a reduction under its scheme,

that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).



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