SCHEDULE 1

Determining eligibility for a reduction under an authority's scheme, amount of reduction and calculation of income and capital: pensioners

PART 6

Period of entitlement and change of circumstances

Date on which entitlement begins

39. 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 to be so entitled from the date on which the application is treated as made in accordance with paragraph 2 of Schedule 13 (date on which application is made).

Date on which change of circumstances is to take effect

40.—(1) Except in cases where paragraph 22 (disregard of changes in tax, contributions, etc) applies and subject to the following provisions of this paragraph and paragraph 41 (change of circumstances where 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 on which the change actually occurs.

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

(3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.

(4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under section 11 or 12 of that Act, it is to take effect from the day on which the change in amount has effect.

(5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.

(6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.

(7) If two or more changes of circumstances occur within the same reduction week they are to take effect from the day to which the appropriate sub-paragraph from (3) to (6) above refers, and, where more than one day is concerned, from the earlier day.

(8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the 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 is to take 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 an authority's scheme.

(9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals

appropriate to that income, would have fallen to be taken into account for the purposes of an authority's scheme.

(10) 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 paragraph 3 (non-dependant deductions) increased.

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

(12) In sub-paragraph (11), "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 an 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 sub-paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in paragraph(10)(b) occurred.

Change of circumstances where the state pension credit payment in payment

41.—(1) Sub-paragraphs (2) to (4) apply where—

(a) the applicant is in receipt of state pension credit;

(b) the amount of state pension credit awarded to the applicant is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and

(c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of a reduction the applicant receives under an authority's scheme.

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—

(a) an increase in the reduction the applicant receives under an authority's scheme, the change takes effect on the day on which the state pension credit becomes payable at the increased rate; or

(b) a decrease in the reduction the applicant receives under an authority's scheme, the change takes effect on the day on which—

(i) state pension credit becomes payable at the increased rate; or

(ii) the authority receives notification from the Secretary of State of the increase in the amount of state pension credit,

whichever is the later.

(3) Where the change of circumstance ("the relevant change") is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under an authority's scheme reduces—

(a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect on the day on which state pension credit was reduced; or

(b) in any other case the relevant change takes effect from the first day on which—

(i) the state pension credit is reduced; or

(ii) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit,

whichever is the later.

(4) Where the change of circumstance is that the applicant's state pension credit is reduced and in consequence of the change, the amount of reduction the applicant receives under an authority's scheme is increased, the change takes effect on the day on which state pension credit becomes payable at the reduced rate.

(5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or the applicant's partner and this would result in a decrease in the amount of reduction the applicant receives under an authority's scheme, the change takes effect on the day on which —

(a) entitlement to state credit pension begins; or

(b) the authority receives notification from the Secretary of State of the award of state pension credit

whichever is the later.

(6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—

(a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and

(b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of reduction the applicant receives under an authority's scheme, the change of circumstances referred to in sub-paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in sub-paragraph (a).

(7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or the applicant's partner and this would result in an increase in the amount of a reduction the applicant receives under an authority's scheme, the change takes effect on the day on which the guarantee credit is first payable.

(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 37 (continuing reductions where state pension credit claimed), that change takes effect on the first day after the expiry of the 4 week period.

(9) In this paragraph—

"official error" means an error made by—

(a) the authority or a person—

(i) authorised to carry out any function of the authority relating to its scheme; or

(ii) providing services relating to an authority's scheme directly or indirectly to the authority; or

(b) an officer of—

(i) the Department for Work and Pensions; or

(ii) the Commissioners of Inland Revenue,

acting as such, but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

"relevant calculation or estimate" means the calculation or estimate made by the Secretary of State of the applicant's or, as the case may be, the applicant's partner's income and capital for the purposes of the award of state pension credit;

"relevant determination" means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 8(1).