

## SCHEDULE

### Council Tax Reduction Schemes (Default Scheme) (Wales)

## PART 2

### Interpretation

#### Interpretation

2.—(1) In this scheme—

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

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society;

“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996(1);

“AFIP” means an armed forces independence payment payable in accordance with an armed forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(2);

“applicable amount” means—

- (a) in relation to a pensioner, the amount calculated in accordance with paragraph 23 and Schedule 2; and
- (b) in relation to a person who is not a pensioner, the amount calculated in accordance with—
  - (i) paragraph 24 and Schedule 3; or
  - (ii) paragraph 26,as the case may be;

“applicant” means a person applying for a reduction under this scheme;

“application” means an application for a reduction under this scheme;

“assessment period” means—

- (a) in relation to pensioners—
  - (i) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 40 of this scheme for the purpose of calculating the weekly earnings of the applicant; or
  - (ii) in relation to any other income, the period determined in accordance with paragraph 37 of this scheme for the purpose of calculating the weekly income of the applicant;
- (b) in relation to persons who are not pensioners, such period as is set out in paragraphs 44 to 46 of this scheme over which income falls to be calculated;

“attendance allowance” means—

- (a) an attendance allowance under Part 3 of the SSCBA(3);
- (b) an increase of disablement pension under section 104 or 105 of the SSCBA;

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(1) 1996 c. 18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22) and amended by the Work and Families Act 2006 (c. 18), Schedule 1, paragraphs 33 and 34.

(2) 2004 c. 32.

(3) 1992 c. 4. See sections 64 to 67 of that Act in relation to attendance allowance.

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(c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(4) or any analogous payment; or

(d) any payment based on need for attendance which is paid as part of a war disablement pension;

“the authority” means a billing authority in relation to whose area this scheme has effect;

“basic rate” has the meaning given by the Income Tax Act 2007(5);

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995(6), the State Pension Credit Act 2002(7) and the Welfare Reform Act 2007(8);

“board and lodging accommodation” means accommodation provided to a person, or if that person is a member of a family, to that person or any other member of that person’s 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 that person’s 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(9) and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001(10) 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(11) 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(12);

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002(13);

“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(14) are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007(15);

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

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(4) S.I. 1983/686; relevant amending instruments are S.I. 1984/1675, 2001/420.

(5) 2007 c. 3. Section 989 defines basic rate by reference to section 6(2) of that Act. Section 6(2) was amended by section 5 of the Finance Act 2008 (c. 9) and section 6 of, and paragraphs 1 and 2 of Part 1 of Schedule 2 to, the Finance Act 2009 (c. 10).

(6) 1995 c. 18.

(7) 2002 c. 16.

(8) 2007 c. 5.

(9) 2000 c. 14; Section 3 was amended by paragraphs 1 and 4 of Schedule 5 to, the Health and Social Care Act 2008, (c. 14).

(10) 2001 asp 8.

(11) S.I. 2003/431 (N.I. 9).

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

(13) 2002 c. 2; Section 8 is repealed by section 147 of, and part 1 of Schedule 14 to, the Welfare Reform Act 2012 (c. 5), (not yet in force).

(14) 2002 c. 21.

(15) 2007 c. 5. Part 1 concerns employment and support allowance, amendments are referenced where relevant.

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“couple” has the meaning given by paragraph 4 of this scheme;

“designated office” means the office of the authority designated by it for the receipt of applications—

- (a) by notice upon or with a form supplied by the authority for the purposes of making an application; or
- (b) by reference upon or with such a form to some other document available 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(16);

“dwelling” has the meaning given by section 3 of the 1992 Act;

“earnings” has the meaning given by paragraph 38, 40, 41, 48 or 50 of this scheme 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(17);

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA(18) 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;

“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995(19) known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(20) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State for Work and Pensions;

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales;

“extended reduction” means a reduction under this scheme for which a person is eligible under Part 11 of this scheme;

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(16) 1992 c. 4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c. 30) and repealed by section 90 of the Welfare Reform Act 2012 (not yet in force).

(17) 2002 c. 7; that definition was amended by the Communications Act 2003 (c. 21), Schedule 17, paragraph 158.

(18) Section 2(1)(a) was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraphs 169 and 171 (c.1).

(19) Section 17A was inserted by the Welfare Reform Act 2009 (c. 24), section 1 and amended by the Welfare Reform Act 2012 (c. 5), Schedule 7, paragraphs 1 and 4, and Schedule 14, Parts 1 and 3 (not yet in force). The section is repealed by Part 4 of Schedule 14 to that Act (not yet in force).

(20) 1999 c. 30.

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“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 87, 94 or 99 of this scheme;

“extended reduction (qualifying contributory benefits)” means a reduction under this scheme for which a person is eligible pursuant to paragraph 86 or 98 of this scheme;

“family” has the meaning given by paragraph 6 of this scheme;

“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**(21)**;

“a guaranteed income payment” means a payment made under article 15(1)(c) or article 29(1) (a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011**(22)**;

“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**(23)**;

“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**(24)** 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**(25)**; and
- (c) in Scotland means an independent healthcare service as defined by section 10F of the National Health Service (Scotland) Act 1978**(26)**;

“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 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

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(21) 2002 c. 16.

(22) S.I. 2011/517.

(23) 1995 c. 18. Section 1(4) was amended by the Welfare Reform and Pensions Act 1999, Schedule 7, paragraphs 1 and 2(1) and (4); the Civil Partnership Act 2004 (c. 33); section 4 of the Welfare Reform Act 2009 (c. 24), and is repealed by the Welfare Reform Act 2012, Schedule 14, Part 1 (not yet in force).

(24) 2006 c. 41. The definition of “health service hospital” has been amended by the Health and Social Care Act 2012 (c. 7), Schedule 4, paragraph 138 (not yet in force).

(25) 2000 c. 14; Section 2 was amended by the Health and Social Care Act 2008 (c. 14), Schedule 5, paragraphs 1 and 3.

(26) 1978 c. 29; Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

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“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(27) except in Part 1 of Schedule 3;

“maternity leave” means a period during which a woman is absent from work because the woman is pregnant or has given birth to a child, and at the end of which the woman has a right to return to work either under the terms of the woman’s contract of employment or under Part 8 of the Employment Rights Act 1996(28);

“maximum council tax reduction” means the amount determined in accordance with paragraph 27 of this scheme;

“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) in relation to pensioners, a supplement to which paragraph 5(1)(a)(vii) of Schedule 4 to this scheme refers;
- (b) in relation to persons who are not pensioners, a supplement to which paragraph 13 of Schedule 7 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 the authority to a dwelling in the area of a second authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 39 or 49 of this scheme, as the case may be;

“net profit” means such profit as is calculated in accordance with paragraph 58 of this scheme;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraphs 89, 96 and 101 of this scheme, 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 paragraph 9 of this scheme;

“occasional assistance” means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of—

- (a) meeting, or helping to meet an immediate short-term need—
  - (i) arising out of an exceptional event or exceptional circumstance, or
  - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
- (b) enabling qualifying individuals to establish or maintain a settled home, and—

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(27) 2007 c. 5; Section 2(1)(b) is amended by the Welfare Reform Act 2012, Schedule 23, paragraph 24 (not yet in force); section 4 is repealed by Part 1 of Schedule 14 to that Act (not yet in force).

(28) 1996 c. 18.

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- (i) “local authority” has the meaning given by section 270(1) of the Local Government Act 1972(29); and
- (ii) “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—
  - (aa) in prison, hospital, an establishment providing residential care or other institution, or
  - (bb) homeless or otherwise living an unsettled way of life;

“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;

“occupational pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993(30);

“ordinary clothing and footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

“partner”, in relation to a person, means—

- (a) where that person is a member of a couple, the other member of that couple;
- (b) subject to paragraph (c), where that person is polygamously married to two or more members of that person’s household, any such member to whom that person is married; or
- (c) where that person is polygamously married and has an award of universal credit with the other party to the earliest marriage that still subsists, that other party to the earliest marriage;

“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(31);

“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(32);

“pensioner” has the meaning given by paragraph 3(2)(a) of this scheme;

“person on income support” means a person in receipt of income support;

“person who is not a pensioner” has the meaning given by paragraph 3(2)(b) of this scheme;

“persons treated as not being in Great Britain” has the meaning given by paragraph 19 of this scheme;

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012(33);

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- (29) 1972 c. 70. The definition of local authority was amended by section 102 of, and paragraph 8 of Schedule 16 and Schedule 17 to the Local Government Act 1985 (c. 51). Other amendments have been made to that definition but they are not relevant to these Regulations,
  - (30) 1993 c. 48. The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 (c. 35) and amended by S.I. 2007/3014.
  - (31) 1996 c. 18. Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22) and sections 80AA and 80BB were inserted by section 3 of the Work and Families Act 2006 Act (c. 18). Relevant regulations made under these sections are S.I. 2002/2788 and S.I. 2003/921 (made under sections 80A and 80B) and S.I. 2010/1055 and S.I. 2010/1059 (made under sections 80AA and 80BB).
  - (32) 1995 c. 26; paragraph 1 has been amended by the State Pension Credit Act 2002 (c. 16), Schedule 2, paragraph 39; the Welfare Reform Act 2007, Schedule 3, paragraph 13; the Pensions Act 2007 (c. 22), Schedule 3, paragraph 4; and section 1 of the Pensions Act 2011 (c. 19).
  - (33) 2012 c. 5.

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993<sup>(34)</sup>;
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988<sup>(35)</sup> 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<sup>(36)</sup>;
- (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 paragraph 5 of this scheme applies;

“public authority” includes any person whose functions are of a public nature;

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002<sup>(37)</sup>)—

- (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 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 paragraph 10 of this scheme;

“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<sup>(38)</sup> refer, less

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<sup>(34)</sup> 1993 c. 48; the definition of “personal pension scheme” was substituted by section 239 of the Pensions Act 2004 (c. 35) and amended by the Finance Act 2007 (c. 11), Schedule 20, paragraph 23 and Schedule 27, Part 3.

<sup>(35)</sup> 1988 c. 1.

<sup>(36)</sup> 2004 c. 12.

<sup>(37)</sup> 2002 c. 16.

<sup>(38)</sup> S.I. 2006/214; amended by S.I. 2007/1356, 2007/2869.

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any deductions in respect of non-dependants which fall to be made under paragraph 28 (non-dependant deductions) of this scheme;

“resident” has the meaning given by Part 1 of the 1992 Act;

“savings credit” is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002<sup>(39)</sup>;

“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;

“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

- (a) an employment zone programme;
- (b) a programme provided by or under arrangements made pursuant to section 2 of the Employment and Training Act 1973<sup>(40)</sup> (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>(41)</sup> (functions in relation to training for employment, etc); or
- (c) the Employment, Skills and Enterprise Scheme;

“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<sup>(42)</sup>;
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985<sup>(43)</sup>;
- (c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995<sup>(44)</sup>;
- (d) a public authority in consequence of a function under section 149 of the Equality Act 2010<sup>(45)</sup>;
- (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999<sup>(46)</sup>;
- (f) a Welsh improvement authority in consequence of a function under section 5 of the Local Government (Wales) Measure 2009<sup>(47)</sup>;
- (g) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001<sup>(48)</sup>;
- (h) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006<sup>(49)</sup>;
- (i) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006<sup>(50)</sup>;

<sup>(39)</sup> 2002 c. 16. Section 3 was amended by the Civil Partnership Act 2004 (c. 33), Schedule 24, paragraph 140 and S.I. 2002/1792.

<sup>(40)</sup> 1973 c. 50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19) and repealed in part by the Employment Act 1989 (c. 38), Schedule 7, Part 1.

<sup>(41)</sup> 1990 c. 35.

<sup>(42)</sup> 1978 c. 29.

<sup>(43)</sup> 1985 c. 68; section 105 was amended by S.I. 1996/2325; the Government of Wales Act 1998 (c. 38), Schedule 8, paragraph 5 and Schedule 16, paragraph 5, and S.I. 2010/866.

<sup>(44)</sup> 1995 c. 50; section 49A was inserted in respect of Northern Ireland by S.I. 2006/312 (N.I. 1).

<sup>(45)</sup> 2010 c. 15.

<sup>(46)</sup> 1999 c. 27; section 3 was amended by the Local Government and Public Involvement in Health Act 2007 (c. 28), section 137.

<sup>(47)</sup> 2009 nawm 2.

<sup>(48)</sup> 2001 asp 10.

<sup>(49)</sup> 2006 c. 41.

<sup>(50)</sup> 2006 c. 42.

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- (j) the Care Quality Commission in exercise of a function under sections 4 or 5 of the Health and Social Care Act 2008**(51)**);
- (k) the regulator or a private registered provider of social housing in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008**(52)**);  
or
- (l) 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**(53)**) out of sums allocated to it for distribution under that section;

“the SSCBA” means the Social Security Contributions and Benefits Act 1992**(54)**);

“state pension credit” means state pension credit under the State Pension Credit Act 2002**(55)**);

“student” has the meaning given by paragraph 70 of this scheme;

“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

“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 that person’s maintenance or in respect of a member of that person’s family; and
- (c) for the period, or part of the period, during which that person 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 that person 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 that person is following a course of full-time education, other

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**(51)** 2008 c. 14; section 4 has been amended by section 189 of the Health and Social Care Act 2012 (c. 7) but those amendments are not yet in force.

**(52)** 2008 c. 17; section 193 was amended by the Localism Act 2011 (c. 20), Schedule 17, paragraphs 1 and 4 and Schedule 25, Part 27.

**(53)** 1993 c. 39; subsection (2) was amended by S.I. 1996/3095, 1999/1663.

**(54)** 1992 c. 4.

**(55)** 2002 c. 16.

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than under arrangements made under section 2 of the Employment and Training Act 1973<sup>(56)</sup> or is training as a teacher;

“the Trusts” means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No 2) Trust;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012<sup>(57)</sup>;

“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<sup>(58)</sup>;

“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<sup>(59)</sup>;
- (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<sup>(60)</sup>, in so far as such charges are in respect of the dwelling which a person occupies as that person’s home;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002<sup>(61)</sup>;

“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA<sup>(62)</sup>.

(2) In this scheme, 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 this scheme, 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 that person and on any day—

- (a) in respect of which that person 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<sup>(63)</sup> (circumstances in which a jobseeker’s allowance is not payable);

<sup>(56)</sup> 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25 and amended by the Employment Act 1989 (c. 38), Schedule 7, Part 1.

<sup>(57)</sup> 2012 c. 5.

<sup>(58)</sup> 2003 c. 1; subsection (2) was inserted by the Finance Act 2005 (c. 7), section 19.

<sup>(59)</sup> 1991 c. 56.

<sup>(60)</sup> 2002 asp 3; section 29A was substituted together with sections 29B to 29G for section 29 as originally enacted by section 21 of the Water Services etc. (Scotland) Act 2005 (asp 3).

<sup>(61)</sup> 2002 c. 21.

<sup>(62)</sup> Section 142 was amended by section 1 of the Child Benefit Act 2005 (c. 6).

<sup>(63)</sup> 1995 c. 18; Section 19 (together with sections 19A to 19C), has been substituted by section 46 of the Welfare Reform Act 2012 (c. 5) but that amendment is not yet in force (sections 19A to 19C are however); section 17A has been repealed by Part

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- (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 that person or would be payable to that person 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(64) (loss of benefit provisions).
- (4) For the purposes of this scheme, 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 that person and on any day—
- (a) in respect of which that person 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(65) (disqualification); or
  - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act (employment and support allowance: supplementary provisions) and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to that person or would be payable to that person but for section 18 of that Act.
- (5) For the purposes of this scheme, two persons must be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- (6) In this scheme, references to any person in receipt of state pension credit include a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002(66) (small amounts of state pension credit).

### **Application of scheme: pensioners and persons who are not pensioners**

- 3.—(1) This scheme applies to—
- (a) pensioners who fall within class A or B(67); and
  - (b) persons who are not pensioners who fall within class C or D(68).
- (2) In this scheme—
- (a) a person is a “pensioner” if—

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4 of Schedule 14 to, the Welfare Reform Act 2012 although that provision is not yet in force. In the meantime amendments have been made to section 17A by sections 48 and 59 of, and Schedules 7 and 14 to, that Act.

(64) 2001 c. 11; section 6B was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c. 24); sections 31, 113, 118, 119, 121 and 147 of, paragraphs 56 and 58 of Schedule 2, paragraphs 15 and 16 of Schedule 3, Parts 1 and 12 of Schedule 14, to the Welfare Reform Act 2012 (c. 5), of which only those made by section 113 (to subsection (1)(b)) are in force. Section 7 was amended by section 14 of, and Part 3 of Schedule 3 to, the State Pension Credit Act 2002 (c. 16); sections 28 and 49 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007 (c. 5); sections 9, 24 and 58 of, and paragraphs 9 and 11 of Schedule 2, Part 1 of Schedule 4 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (of which those made by sections 9, 31 and Schedule 7 are not yet in force); S.I. 2011/2298; sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of Schedule 2, paragraphs 15 and 17 of Schedule 3 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, none of which are yet in force. Section 8 has been repealed by section 147 of, and Part 1 of Schedule 14, to the Welfare Reform Act 2012, but that repeal is not yet in force. Amendments have also been made by sections 1, 24, and 58 of, and Part 1 of Schedule 4 and Part 3 of Schedule 7 to, the Welfare Reform Act 2009; sections 31, 48, 113 and 147 of, and paragraphs 56 and 60 of Schedule 2, paragraph 12 of Schedule 7 and Part 12 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force. Section 9 was amended by section 14 of, and Part 3 of Schedule 2 to, the State Pension Credit Act 2002; sections 28 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007; sections 9 and 58 of, and Part 1 of Schedule 7 to, the Welfare Reform Act 2009, none of which are in force; sections 31, 113 and 147 of, and paragraphs 56 and 61 of Schedule 2 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force.

(65) 2007 c. 5.

(66) S.I. 2002/1792.

(67) See paragraphs 13 and 14 of this scheme.

(68) See paragraphs 15 and 16 of this scheme.

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- (i) that person has attained the qualifying age for state pension credit; and
- (ii) that person is not, or, if that person has a partner, that person's 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 is a "person who is not a pensioner" if—
  - (i) that person has not attained the qualifying age for state pension credit; or
  - (ii) that person has attained the qualifying age for state pension credit and that person, or if that person has a partner, that person's partner, is—
    - (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.

#### **Meaning of "couple"**

- 4.—(1) In this scheme "couple" means—
- (a) a man and woman who are married to each other and are members of the same household;
  - (b) a man and 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.
- (2) Two people of the same sex who are not civil partners of each other are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.

#### **Polygamous marriages**

- 5.—(1) This paragraph 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 paragraph 4 (meaning of "couple") neither party to the marriage is to be taken to be a member of a couple.

#### **Meaning of "family"**

- 6.—(1) In this scheme "family" means—
- (a) a couple;
  - (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
  - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.

(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(69) 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 sub-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 has an award of universal credit; or
- (b) a person to whom section 6 of the Children (Leaving Care) Act 2000(70) (exclusion from benefits) applies.

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

7.—(1) A person is to be treated as responsible for a child or young person who is normally living with that person, including a child or young person to whom paragraph 6(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 the child or young person is living in, the child or young person must be treated for the purposes of sub-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 that child or young person, the person who made that claim; or
  - (ii) in any other case the person who has the primary responsibility for that child or young person.

(3) For the purposes of this scheme a child or young person is the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this paragraph is to be treated as not so responsible.

### **Households**

8.—(1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or the applicant's partner is treated (by virtue of paragraph 7) 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 that child or young person is—

- (a) placed with the applicant or the applicant's partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989(71) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or the applicant's partner under a relevant enactment; or
- (b) placed, or in Scotland boarded out, with the applicant or the applicant's partner prior to adoption; or

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(69) Section 145A inserted by the Tax Credits Act 2002 (c. 21), section 55(1).

(70) 2000 c. 35

(71) 1989 c. 41; Section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c. 23). Section 22C is in force in England but is not yet in force in Wales. Section 59(1)(a) was amended by section 49 of the Children Act 2004 (c. 31) and paragraph 2 of Schedule 1 to the Children and Young Persons Act 2008.

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- (c) placed for adoption with the applicant or the applicant's partner in accordance with the Adoption and Children Act 2002(72), or the Adoption Agencies (Scotland) Regulations 2009(73), or the Adoption (Northern Ireland) Order 1987(74).
- (3) Subject to sub-paragraph (4), sub-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, or the Adoption (Northern Ireland) Order 1987.
- (4) An authority must treat a child or young person to whom sub-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 paragraph "relevant enactment" means—
  - (a) the Army Act 1955(75);
  - (b) the Air Force Act 1955(76);
  - (c) the Naval Discipline Act 1957(77);
  - (d) the Matrimonial Proceedings (Children) Act 1958(78);
  - (e) the Social Work (Scotland) Act 1968(79);
  - (f) the Family Law Reform Act 1969(80);
  - (g) the Children and Young Persons Act 1969(81);
  - (h) the Matrimonial Causes Act 1973(82);
  - (i) the Children Act 1975(83);
  - (j) the Domestic Proceedings and Magistrates' Courts Act 1978(84));
  - (k) the Adoption and Children (Scotland) Act 2007(85));
  - (l) the Family Law Act 1986(86));
  - (m) the Children Act 1989(87));

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(72) 2002 c. 38.

(73) S.I. 2009/154.

(74) S.I. 1987/2203 (N.I. 22).

(75) 1955 c. 18.

(76) 1955 c. 19.

(77) 1957 c. 53.

(78) 1958 c. 40.

(79) 1968 c. 49.

(80) 1969 c. 46.

(81) 1969 c. 54.

(82) 1973 c. 18.

(83) 1975 c. 72; this Act was repealed in respect of England and Wales by Schedule 15 to the Children Act 1989 (c. 41). It continues to have effect in Scotland.

(84) 1978 c. 22.

(85) 2007 asp 4.

(86) 1986 c. 55.

(87) 1989 c. 41.

- (n) the Children (Scotland) Act 1995<sup>(88)</sup>);
- (o) the Armed Forces Act 2006<sup>(89)</sup>); and
- (p) the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(90)</sup>).

### **Non-dependants**

9.—(1) In this scheme, “non-dependant” means any person, except someone to whom sub-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—
  - (i) where the applicant has (alone or jointly with the applicant’s partner) an award of universal credit, and—
    - (aa) party to such a marriage other than the applicant’s partner; and
    - (bb) any child or young person who is a member of the applicant’s household and for whom the applicant or the applicant’s partner or another party to the polygamous marriage is responsible; or
  - (ii) in any other case, any partner of the applicant and any child or young person who is a member of the applicant’s household and for whom the applicant or one of the applicant’s partners is responsible;
- (c) a child or young person who is living with the applicant but who is not a member of the applicant’s household by virtue of paragraph 8 (households);
- (d) subject to sub-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 sections 6 or 7 of the 1992 Act (persons liable to pay council tax);
- (e) subject to sub-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 the applicant or a partner of the applicant, and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or the applicant’s 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 that person is liable to make payments in respect of the dwelling and either—
  - (i) that person is a close relative of that person’s or that person’s 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 council tax reduction 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;

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<sup>(88)</sup> 1995 c. 36.

<sup>(89)</sup> 2006 c. 52.

<sup>(90)</sup> 2012 c. 10.

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- (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 that person 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 council tax reduction scheme.

### **Remunerative work**

**10.**—(1) Subject to the following provisions of this paragraph, a person must be treated for the purposes of this scheme as engaged in remunerative work if that person is engaged, or, where that person's hours of work fluctuate, that person 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 that person's 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 sub-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 that person does not work, those periods and any other periods not forming part of such holidays or vacations during which that person is not required to work must be disregarded in establishing the average hours for which that person 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 that person is expected to work in a week.

(5) A person must be treated as engaged in remunerative work during any period for which that person is absent from work referred to in sub-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 is to 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 that person is on maternity leave, paternity leave or adoption leave, or is absent from work because that person is ill.

(8) A person must not be treated as engaged in remunerative work on any day on which that person is engaged in an activity in respect of which—

- (a) a sports award has been made, or is to be made, to that person; and
- (b) no other payment is made or is expected to be made to that person.