

SCHEDULES

SCHEDULE 1

EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

PART 2

INCOME-RELATED ALLOWANCE

- 6.—(1) The conditions are that the claimant—
- (a) has an income which does not exceed the applicable amount or has no income;
 - (b) does not have capital which, or a prescribed part of which, exceeds the prescribed amount;
 - (c) is not entitled to state pension credit;
 - (d) is not a member of a couple the other member of which is entitled to an income-related allowance, state pension credit, income support or an income-based jobseeker's allowance;
 - (e) is not engaged in remunerative work;
 - (f) is not a member of a couple the other member of which is engaged in remunerative work;
 - (g) is not receiving education.
- (2) Where the claimant is a member of a couple, the income and capital of the other member of the couple shall, except in prescribed circumstances, be treated for the purpose of this paragraph as income and capital of the claimant.
- (3) Regulations may prescribe circumstances in which, for the purposes of sub-paragraph (1)(e) and (f)—
- (a) a person who is not engaged in remunerative work is to be treated as engaged in remunerative work, or
 - (b) a person who is engaged in remunerative work is to be treated as not engaged in remunerative work.
- (4) Regulations may—
- (a) make provision about when, for the purposes of sub-paragraph (1)(g), a person is, or is not, to be treated as receiving education;

(b) prescribe circumstances in which sub-paragraph (1)(g) does not apply.

(5) In this paragraph—

“applicable amount” means the amount which, in the claimant’s case, is the applicable amount for the purposes of section 4(1);

“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 otherwise than in prescribed circumstances;
- (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 otherwise than in prescribed circumstances;

“education” has such meaning as may be prescribed;

“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Order;

“remunerative work” has such meaning as may be prescribed.

(6) For the purposes of this paragraph, two people of the same sex 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.

(7) Regulations may make provision for the preceding provisions of this paragraph to have effect with prescribed modifications in a case where—

- (a) the claimant is a husband or wife by virtue of a marriage entered into under a law which permits polygamy,
- (b) either party to the marriage has for the time being any spouse additional to the other party, and
- (c) the claimant, the other party to the marriage and the additional spouse are members of the same household.

(8) Regulations may make provision for the purposes of this paragraph as to circumstances in which people are to be treated as being or not being members of the same household.