

SCHEDULE 2

Regulation 10

RULES FOR COMPUTING DISPOSABLE INCOME

1. The income of the person concerned from any source shall be taken to be the income which that person may reasonably expect to receive (in cash or in kind) during the period of computation, that income in the absence of other means of ascertaining it being taken to be the income received during the preceding year.

2. The income in respect of any emolument, benefit or privilege receivable otherwise than in cash shall be estimated at such a sum as in all the circumstances is just and equitable.

3.—(1) The income from a trade, business or gainful occupation other than an employment at a wage or salary shall be deemed to be whichever of the following the Board considers more appropriate and practicable:—

- (a) the profits which have accrued or will accrue to the person concerned in respect of the period of computation; or
- (b) the drawings of the person concerned.

(2) In calculating the profits and drawings referred to in paragraph (1) above—

- (a) the Board may have regard to the profits of the last accounting period of such trade, business or gainful occupation for which accounts have been prepared; and
- (b) there shall be deducted all sums necessarily expended to earn those profits, but no deduction shall be made in respect of the living expenses of the person concerned or any member of that person's family or household, except in so far as that person is wholly or mainly employed in that trade or business and such living expenses form part of that person's remuneration.

4.—(1) In computing the disposable income of the person concerned there shall be deducted the total amount of tax which it is estimated would be payable by the person concerned if that person's income, as computed in accordance with the foregoing rules of this Schedule (but without taking into account the operation of regulation 11(1) of these Regulations), were that person's income for a fiscal year and that person's liability for tax in that year were to be ascertained by reference to that income and not by reference to that person's income in any other year or period.

(2) For the purposes of this rule the tax shall be estimated at the rate provided by and after making all appropriate allowances, deductions or reliefs in accordance with the provisions of the Income Tax Acts in force for the fiscal year current at the date of the application.

5. In computing the disposable income of the person concerned, there shall be disregarded—

- (a) income support paid under section 124 of the 1992 Act⁽¹⁾;
- (b) an income-based jobseeker's allowance (payable under the Jobseekers Act 1995⁽²⁾);
- (c) a back to work bonus (payable under the Jobseekers Act 1995);
- (d) any payment made under the Community Care (Direct Payments) Act 1996⁽³⁾ or under section 12B of the Social Work (Scotland) Act 1968⁽⁴⁾.

(1) Section 124 was amended by the Jobseekers Act 1995 (c. 18), Schedules 2 and 3 and the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8.

(2) 1995 c. 18.

(3) 1996 c. 30.

(4) 1968 c. 49; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4 and amended by the Regulation of Care (Scotland) Act 2001 (asp 8), section 70.

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6. There shall be disregarded £4 a week of the income taken into account in so far as it consists of interest or dividends payable on a loan or investment where that loan or investment forms part of the disposable capital of the person concerned.

7. There shall be disregarded—

- (a) attendance allowance paid under section 64 of the 1992 Act⁽⁵⁾;
- (b) disability living allowance paid under section 71 of the 1992 Act⁽⁶⁾;
- (c) constant attendance allowance paid as an increase to a disablement pension under section 104 of the 1992 Act;
- (d) any sums paid to a person as holder of the Victoria Cross or the George Cross;
- (e) any payment made out of the social fund under section 138 of the 1992 Act⁽⁷⁾.

8. When the income of the person concerned consists, wholly or in part, of a wage or salary from employment there shall be deducted—

- (a) the reasonable expenses of travelling to and from that person's place of employment;
- (b) the amount of any payments reasonably made for membership of a trade union or professional organisation;
- (c) when it would be reasonable to do so, an amount to provide for the care of any dependent child living with the person concerned during the time that person is absent from the home by reason of employment; and
- (d) the amount of any contribution paid, whether under a legal obligation or not, to an occupational pension scheme within the meaning of the Social Security Pensions Act 1975⁽⁸⁾ or to a personal pension scheme within the meaning of section 1 of the Pension Schemes Act 1993⁽⁹⁾.

9. There shall be a deduction in respect of contributions payable by the person concerned (whether by deduction or otherwise) under the 1992 Act of the amount estimated to be so payable in the 12 months following the application.

10. There shall be a deduction in respect of the amounts payable or estimated to be payable in the 12 months following the application by the person concerned in respect of—

- (a) the council tax and the rate as defined in section 99(1) and (2)(a) of the Local Government Finance Act 1992⁽¹⁰⁾; and
- (b) charges payable under an order made by virtue of section 37 of the Water Industry (Scotland) Act 1994⁽¹¹⁾.

11.—(1) There shall be a deduction, in respect of rent of the main or only dwelling in the case of a householder, of the amount of the net rent paid or such part thereof as is reasonable in the circumstances:

Provided that any contributions received from any other person towards that payment of rent shall be taken into account as income, and the Board shall decide which is the main dwelling where the person concerned resides in more than one dwelling in which that person has an interest.

(2) In this rule the expression “rent” means—

⁽⁵⁾ Section 64 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), section 66.

⁽⁶⁾ Section 71 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), section 67.

⁽⁷⁾ Section 138 was amended by the Social Security Act 1998 (c. 14), section 70.

⁽⁸⁾ 1975 c. 60

⁽⁹⁾ 1993 c. 48; section 1 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 2 and S.I.1999/1820.

⁽¹⁰⁾ 1992 c. 14; section 99 was amended by the Local Government etc. (Scotland) Act 1994, schedule 13 and the Housing (Scotland) Act 2001 (asp 10), schedule 10.

⁽¹¹⁾ 2002 asp 3.

- (a) the feu duty or ground annual or the rent payable in respect of a year; and
 - (b) a sum in respect of the yearly outgoings borne by the householder including, in particular, a reasonable allowance towards any necessary expenditure on repairs and insurance and any other annual burden, including any annual instalment (whether of interest or capital) payable in respect of a heritable security (within the meaning of section 9(8)(a) of the Conveyancing and Feudal Reform (Scotland) Act 1970(12)) or a real burden *ad factum praestandum*.
- (3) In this rule the expression “net rent” means—
- (a) the rent less any proceeds of subletting any part of the premises in respect of which the said rent is paid or the outgoings incurred; or
 - (b) where any person or persons other than the person concerned, his or her spouse or any dependent of his or hers is accommodated, otherwise than as a subtenant, in the premises for which the rent is paid, the rent less such an amount as the Board may determine to be reasonably attributable to the accommodation of such person.

12. If the person concerned is not a householder, there shall be a deduction in respect of the cost of that person’s living accommodation of such amount as is reasonable in the circumstances.

13.—(1) There shall be a deduction in respect of the maintenance of the spouse of the person concerned, if the spouses are living together and in respect of the maintenance of any person wholly or substantially maintained by the person concerned, being a member of his or her household, (“a dependent person”) at the following rates:—

- (a) in the case of a spouse, at a rate equivalent to the difference, as at the date when the computation period began, between the income support allowance for a couple where both members are aged not less than 18 (which is specified in column (2) of paragraph 1(3)(d) of Part 1 of Schedule 2 to the Income Support (General) Regulations 1987(13)), and the allowance for a single person aged not less than 25 (which is specified in column (2) of paragraph 1(1)(e) of Part 1 of Schedule 2 to those Regulations);
- (b) in the case of a dependent person aged under 19, at a rate equivalent to the amount specified in column (2) of paragraph 2(1) of Part 1 of Schedule 2 to the Income Support (General) Regulations 1987 appropriate to that person as at the date when the computation period began;
- (c) in the case of a dependent person aged 19 or over at a rate equivalent to the amount specified in column (2) of paragraph 2(1)(b) of Part 1 of Schedule 2 to the Income Support (General) Regulations 1987 as at the date when the computation period began:

Provided that the Board may reduce such rate by taking into account the income and other resources of the dependent person to such extent as appears to the Board to be just and equitable.

(2) In ascertaining whether a person is a dependent person regard shall be had to their income and other resources.

14. If the person concerned is making and, throughout such period as the Board may consider adequate, has regularly made bona fide payments for the maintenance of a spouse who is living apart, of a former spouse, of a child or of a relative who is not (in any such cases) a member of the household of the person concerned, there shall be a deduction at the rate of such payments or at such rate, not exceeding the rate of such payments, as in all the circumstances is reasonable.

15. Where the person concerned must provide for any other matter the Board may make an allowance of such amount as it considers to be reasonable in the circumstances of the case.

(12) 1970 c. 35; section 9(8)(a) was amended by the [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), schedule 12.

(13) S.I. 1987/1967; as relevantly amended by S.I. 2001/207 and 2980.

Status: *This is the original version (as it was originally made).*

16. In computing the income from any source there shall be disregarded such amount, if any, as the Board considers to be reasonable having regard to the nature of the income or to any other circumstances of the case.