

## SCHEDULE I

### PART I

#### **Circumstances in which persons are treated as being or not being severely disabled**

##### **Severe disablement**

1.—(1) For the purposes of regulation 6(4) (additional amounts for persons severely disabled), the claimant is to be treated as being severely disabled if, and only if—

- (a) in the case of a claimant who has no partner—
  - (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 1992 Act; and
  - (ii) no person who has attained the age of 18 is normally residing with the claimant, nor is the claimant normally residing with such a person, other than a person to whom paragraph 2 applies; and
  - (iii) no person is entitled to and in receipt of an allowance under section 70 of the 1992 Act (invalid care allowance) in respect of caring for him;
- (b) in the case of a claimant who has a partner—
  - (i) both partners are 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 1992 Act; and
  - (ii) no person who has attained the age of 18 is normally residing with the partners, nor are the partners normally residing with such a person, other than a person to whom paragraph 2 applies;and either a person is entitled to, and in receipt of, an allowance under section 70 of the 1992 Act in respect of caring for one only of the partners or, as the case may be, no person is entitled to, and in receipt of, such an allowance in respect of caring for either partner;
- (c) in the case of a claimant who has a partner and to whom head (b) does not apply—
  - (i) either the claimant or his partner 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 1992 Act; and
  - (ii) the other partner is registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948<sup>(1)</sup> (welfare services) or, in Scotland, has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a regional or islands council; and
  - (iii) no person who has attained the age of 18 is normally residing with the partners, nor are the partners normally residing with such a person, other than a person to whom paragraph 2 applies; and
  - (iv) no person is entitled to and in receipt of an allowance under section 70 of the 1992 Act respect of caring for the person to whom head (c) (i) above applies.

(2) A person shall be treated—

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(1) 1948 c. 29.

- (a) for the purposes of sub-paragraph (1) as being in receipt of attendance allowance or, as the case may be, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, for any period—
  - (i) before an award is made but in respect of which the allowance is awarded; or
  - (ii) not covered by an award but in respect of which a payment is made in lieu of an award;
- (b) for the purposes of sub-paragraph (1)(b) as being in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance section 37ZB(3) of the 1992 Act if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (c) for the purposes of sub-paragraph (1), as not being in receipt of an allowance under section 70 of the 1992 Act for any period before the date on which the award is made.

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

#### **Persons residing with the claimant whose presence is ignored**

2.—(1) For the purposes of paragraph 1(1)(a)(ii), (b)(ii) and (c)(iii), this paragraph applies to the persons specified in the following sub-paragraphs.

- (2) A person who—
  - (a) 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 1992 Act;
  - (b) is registered as blind 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 is registered as blind in a register maintained by or on behalf of a regional or islands council;
  - (c) is no longer registered as blind in accordance with head (b) but was so registered not more than 28 weeks earlier;
  - (d) lives with the claimant in order to care for him or his partner and is engaged by a charitable or voluntary organisation which makes a charge to the claimant or his partner for the services provided by that person;
  - (e) is a partner of a person to whom head (d) above applies; or
  - (f) is a person who is treated as a child for the purposes of Part IX of the 1992 Act<sup>(2)</sup>.

(3) Subject to sub-paragraph (4), a person who joins the claimant's household for the first time in order to care for the claimant or his partner and immediately before he joined the household, the claimant or his partner was treated as being severely disabled.

(4) Sub-paragraph (3) applies only for the first 12 weeks following the date on which the person first joins the claimant's household.

- (5) A person who is not a close relative of the claimant or his partner and—
  - (a) who is liable to make payments on a commercial basis to the claimant or his partner in respect of his occupation of the dwelling;
  - (b) to whom the claimant or his partner is liable to make payments on a commercial basis in respect of his occupation of that person's dwelling; or

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(2) See section 142(1) of the 1992 Act.

- (c) who is a member of the household of a person to whom head (a) or (b) applies.
- (6) Subject to paragraph 3(3), a person who jointly occupies the claimant's dwelling and who is either—
  - (a) co-owner of that dwelling with the claimant or the claimant's partners (whether or not there are other co-owners); or
  - (b) jointly liable with the claimant or the claimant's partner to make payments to a landlord in respect of his occupation of that dwelling.
- (7) Subject to paragraph 3(3), a person who is a partner of a person to whom sub-paragraph (6) applies.

**3.—**(1) For the purposes of paragraphs 1 and 2, a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area, but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord.

(2) In sub-paragraph (1), “communal area” means any area (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation.

(3) Paragraph 2(6) and (7) applies to a person who is a close relative of the claimant or his partner only if the claimant or his partner's co-ownership, or joint liability to make payments to a landlord in respect of his occupation, of the dwelling arose either before 11th April 1988, or, if later, on or before the date upon which the claimant or the claimant's partner first occupied the dwelling in question.