

SCHEDULE 1

Regulation 25(2)

Meaning of payments in respect of accommodation

General

Interpretation

1. In this Schedule—

“approved premises” means premises approved by the Secretary of State under section 13 of the Offender Management Act 2007(1) (which contains provision for the approval etc. of premises providing accommodation for persons granted bail in criminal proceedings or for or in connection with the supervision or rehabilitation of persons convicted of offences);

“care home”—

- (a) in England and Wales, means a care home within the meaning of section 3 of the Care Standards Act 2000(2);
- (b) in Scotland, means a care home service within the meaning of paragraph 2 of Schedule 12 to the Public Services Reform (Scotland) Act 2010(3); and
- (c) in either case, includes an independent hospital;

“exempt accommodation” means—

- (a) accommodation which is a resettlement place within the meaning of section 30 of the Jobseekers Act 1995(4) (grants for resettlement places) and which is provided by persons to whom the Secretary of State has given assistance by way of grant pursuant to that section;
- (b) accommodation provided to a claimant by any of the following bodies, where the body providing the accommodation, or a person acting on its behalf, also provides the claimant with care, support or supervision—
 - (i) an upper-tier county council,
 - (ii) a housing association,
 - (iii) a registered charity, or
 - (iv) a voluntary organisation;

“housing association” has the meaning given by section 1(1) of the Housing Associations Act 1985(5);

“independent hospital”—

- (a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006(6) that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000(7);

(1) 2007 c.21.

(2) 2000 c.14. Section 3 was amended by section 95 of, and paragraph 4 of Schedule 5 to, the Care Standards Act 2008 (c.14).

(3) 2010 asp 8.

(4) 1995 c.18.

(5) 1985 c.69. An amendment to section 1(1) which was inserted by section 3 of, and paragraph 6 of Schedule 2 to, the Housing (Scotland) Act 1988 (c.43) was repealed by section 112 of, and paragraph 11 of Schedule 10 to, the Housing (Scotland) Act 2001 (asp 10).

(6) 2006 c.41.

(7) 2000 c.14. Section 2 was amended by section 103 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43); section 2 of, and paragraph 199 of Schedule 1 to, the National Health Service (Consequential Provisions) Act 2006 (c.43); section 95 of, and paragraph 3 of Schedule 5 to, the Health and Social Care Act 2008 (c.14); and by S.I. 2001/3968 and 2008/2352.

(c) in Scotland, means an independent health care service as defined in section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978⁽⁸⁾;

“registered charity” means a charity entered in the register of charities maintained under Part 4 of the Charities Act 2011⁽⁹⁾ or a body entered on the register of charities maintained under the Charities and Trustee Investment (Scotland) Act 2005⁽¹⁰⁾;

“shared ownership tenancy” has the meaning given in regulation 26(6);

“tent” means a moveable structure that is designed or adapted (solely or mainly) for the purpose of sleeping in a place for any period and that is not a caravan, a mobile home or a houseboat;

“upper-tier county council” means a council for a county in England for each part of whose area there is a district council;

“voluntary organisation” means a body (other than a public or local authority) whose activities are carried on otherwise than for profit.

Rent payments

Rent payments

2. “Rent payments” are such of the following as are not excluded by paragraph 3—
- (a) payments of rent;
 - (b) payments for a licence or other permission to occupy accommodation;
 - (c) mooring charges payable for a houseboat;
 - (d) in relation to accommodation which is a caravan or mobile home, payments in respect of the site on which the accommodation stands;
 - (e) contributions by residents towards maintaining almshouses (and essential services in them) provided by a housing association which is—
 - (i) a registered charity, or
 - (ii) an exempt charity within Schedule 3 to the Charities Act 2011.

Payments excluded from being rent payments

3. The following are excluded from being “rent payments”—
- (a) payments of ground rent;
 - (b) payments in respect of a tent or the site on which a tent stands;
 - (c) payments in respect of approved premises;
 - (d) payments in respect of a care home;
 - (e) payments in respect of exempt accommodation;
 - (f) payments which are owner-occupier payments within the meaning of paragraph 4.
 - (g) payments which are service charge payments within the meaning of paragraph 7.

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

⁽⁹⁾ 2011 c.25.

⁽¹⁰⁾ 2005 asp10.

Owner-occupier payments

Owner-occupier payments

- 4.—(1) “Owner-occupier payments” are—
- (a) loan interest payments within the meaning of paragraph 5;
 - (b) alternative finance payments within the meaning of paragraph 6.
- (2) Payments are excluded from sub-paragraph (1) if they are service charge payments within the meaning of paragraph 7.

Meaning of “loan interest payments”

5. “Loan interest payments” means payments of interest on a loan which is secured on the accommodation in respect of which the claimant meets the occupation condition.

Meaning of “alternative finance payments”

6.—(1) “Alternative finance payments” means payments that are made under alternative finance arrangements which were entered into to enable a person to acquire an interest in the accommodation in respect of which the claimant meets the occupation condition.

(2) “Alternative finance arrangements” has the same meaning as in Part 10A of the Income Tax Act 2007(11).

Service charge payments

Service charge payments

- 7.—(1) “Service charge payments” are payments which—
- (a) fall within sub-paragraph (2);
 - (b) are not excluded by sub-paragraph (3); and
 - (c) in any case to which paragraph 8 applies, meet all of the conditions set out in that paragraph.
- (2) The payments falling within this sub-paragraph are payments of amounts which are, in whole or in part—
- (a) payments of, or towards, the costs of or charges for providing services or facilities for the use or benefit of persons occupying accommodation; or
 - (b) fairly attributable to the costs of or charges for providing such services or facilities connected with accommodation as are available for the use or benefit of persons occupying accommodation.
- (3) Payments are excluded by this sub-paragraph where—
- (a) a loan that falls within paragraph 5 was taken out for the purposes of making the payments; or
 - (b) the services or facilities to which the payments relate are provided for the use or benefit of any person occupying—
 - (i) a tent,

(11) 2007 c.3. Part 10A was inserted by section 365 of, and Part 1 of Schedule 2 to, the Taxation (International and Other Provisions) Act 2010 (c.8).

- (ii) approved premises,
 - (iii) a care home, or
 - (iv) exempt accommodation.
- (4) It is irrelevant for the purposes of sub-paragraph (2)—
- (a) whether or not the payments are separately identified as relating to the costs or charges referred to in sub-paragraph (2);
 - (b) whether they are made in addition to or as part of any other payment (including a payment that would otherwise be regarded as a rent payment within the meaning of paragraph 2);
 - (c) whether they are made under the same or a different agreement as that under which the accommodation is occupied.

Additional conditions: social rented sector renters and owner-occupiers

8.—(1) This paragraph applies for the purposes of calculating the amount of housing costs element to be included in a claimant's award of universal credit but only as regards calculations made under—

- (a) Part 5 of Schedule 4 (social rented sector other than temporary accommodation); or
 - (b) Schedule 5 (housing costs element for owner-occupiers).
- (2) The following are the conditions referred to in paragraph 7(1)(c).
- (3) The first condition is that making the payments is a condition on which the right to occupy the accommodation depends.
- (4) The second condition is that the payments fall within one or more of the following categories:

Category A - Payments to maintain the general standard of the accommodation

Payments within this category are for—

- (a) (a) the external cleaning of windows, but only in relation to upper floors of a multi-storey building;
- (b) (b) other internal or external maintenance or repair of the accommodation, but only where the payments are separately identifiable as relating to such maintenance or repair and payable by—
 - (i) a claimant who occupies accommodation under a shared ownership tenancy, or
 - (ii) a claimant in whose case any amount of housing costs element to be included in their award in respect of those payments would fall to be calculated under Schedule 5.

Category B - Payments for the general upkeep of areas of communal use

Payments within this category are for ongoing maintenance or cleaning of, and the supply of water, fuel or any other commodity relating to the common use of, internal or external areas, including areas for reasonable facilities (such as laundry rooms or children's play areas).

Category C - Payments in respect of basic communal services

Payments within this category are for provision, ongoing maintenance, cleaning or repair in connection with basic services generally available to all persons living in the accommodation (such as refuse collection, communal lifts, secure building access or wireless or television aerials to receive a service free of charge).

Category D – Accommodation-specific charges

Payments within this category are specific to the particular accommodation occupied by a claimant but are limited to payments for the use of essential items contained in it (such as furniture or domestic appliances).

(5) The third condition is that the costs and charges to which the payments relate are of a reasonable amount and relate to services or facilities of such description as it is reasonable to provide.

(6) The fourth condition is that the payments are none of the following—

- (a) payments to the extent that they relate to the costs of or charges for providing services or facilities in respect of which payments out of public funds might otherwise be made (irrespective of whether the claimant has any entitlement to payments so made);
- (b) payments in connection with the use of an asset which result in the transfer of the asset or any interest in it;
- (c) payments to the extent that they relate to the costs of or charges for providing food, medical services or personal services (including personal care) of any description.

(7) Payments that are not service charge payments within the meaning of paragraph 7 by reason only that they fail to meet any of the conditions set out in sub-paragraphs (3) to (6) are nevertheless to be treated as if they were such service charge payments for the purposes of paragraphs 3(g) and 4(2).