

## 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 the profits therefrom which have accrued or will accrue to the person concerned in respect of the period of computation and, in computing such profits, 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 made up.

(2) In ascertaining the profits for the purpose of the last foregoing sub-paragraph there shall be deducted all sums necessarily expended to earn those profits, provided that no deduction shall be made in respect of the living expenses of that person or any member of his family or household, except in so far as such member of his family or household shall be wholly or mainly employed in such trade or business and such living expenses form part of his 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 his 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 his income for a fiscal year and his liability for tax in that year were to be ascertained by reference to that income and not by reference to his 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;
- (b) an income-based jobseeker's allowance;
- (c) so much of any back to work bonus received under section 26 of the Jobseekers Act 1995 as is by virtue of that section to be treated as payable by way of a jobseeker's allowance;
- (d) any payment made by the Secretary of State under the Earnings Top-up Scheme 1996(1).

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) disability living allowance paid under section 71 of the 1992 Act;
- (b) constant attendance allowance paid as an increase to a disablement pension under section 104 of the 1992 Act;

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(1) This Scheme, which applies only in certain areas of Great Britain, is an extra statutory Scheme introduced by the Secretary of State for Social Security having effect on 8th October 1996. Copies of the rules of the Scheme may be obtained from the Customer Service's Manager, Earnings Top-up, Norcross, Blackpool, FY5 3TA and will be available for inspection at the Department of Social Security, 9th Floor, Adelphi, 1-11 John Adam Street, London, WC2N 6HD and Offices of the Benefits Agency and Employment Job Centres which serve the areas specified in Schedule 1 to the Scheme.

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- (c) any sums paid to a person as holder of the Victoria Cross or the George Cross;
  - (d) any payment made out of the social fund under section 138 of the 1992 Act.
- 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 his 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 or to a personal pension scheme within the meaning of section 1 of the Pension Schemes Act 1993<sup>(2)</sup>.
- 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<sup>(3)</sup>; and
  - (b) charges payable under an order made by virtue of section 79 of the Local Government etc. (Scotland) Act 1994<sup>(4)</sup>.
- 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 he has an interest.
- (2) In this rule the expression “rent” means—
- (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<sup>(5)</sup>) or a real burden *ad factum praestandum*.
- (3) In this rule the expression “net rent” means—
- (a) the rent less any proceeds of sub-letting 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 sub-tenant, 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.

(2) 1993 c. 48.

(3) 1992 c. 14.

(4) 1994 c. 39.

(5) 1970 c. 35.

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**12.** If the person concerned is not a householder, there shall be a deduction in respect of the cost of his 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, in respect of the maintenance of any dependent child and in respect of the maintenance of any dependent relative of the person concerned, being (in either of such cases) a member of his or her household, 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)(c) of Part I of Schedule 2 to the Income Support (General) Regulations 1987<sup>(6)</sup>), 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 I of Schedule 2 to those Regulations<sup>(7)</sup>);
- (b) in the case of a dependent child or a dependent relative, at a rate equivalent to the amount specified in paragraph 2 of Part I of Schedule 2 to the Income Support (General) Regulations 1987<sup>(8)</sup> appropriate to the age of the child or relative 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 child or other dependent to such extent as appears to the Board to be just and equitable.

(2) In ascertaining whether a child is a dependent child and whether a person is a dependent relative 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 of 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.

**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.

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<sup>(6)</sup> S.I.1987/1967; paragraph 1(3) was substituted by S.I. 1996/206.

<sup>(7)</sup> The allowance specified was amended by S.I. 1995/559.

<sup>(8)</sup> The amount specified was amended by S.I. 1995/559.