

SCHEDULE 3

Regulation 30(2)

Sums disregarded from applicant's earnings: pensioners

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—

- (a) £25 in the case of a lone parent;
- (b) £20 in any other case.

2. In a case where an applicant is a lone parent, £25 of earnings.

3.—(1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—

- (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004⁽¹⁾ or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005⁽²⁾) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) as an auxiliary coastguard in respect of coast rescue activities;
- (d) in the manning or launching of a lifeboat if the employment is part-time;
- (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.

(3) If—

- (a) any of the earnings of the applicant or, if the applicant has a partner, the applicant's partner, or both of them, are disregarded under sub-paragraph (1); and
- (b) either of them has, or both of them have, other earnings,

so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.

4.—(1) If the applicant or, if the applicant has a partner, the applicant's partner is a carer, or both are carers, £20 of any earnings received from the applicant's or their employment.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of the applicant, their earnings are for the purposes of this paragraph to be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) is not to exceed £20 of the aggregated amount.

(3) In this paragraph the applicant or the applicant's partner is a carer if paragraph 9 of Part 3 of Schedule 2 (amount applicable for carers) is satisfied in respect of the applicant.

5.—(1) £20 is disregarded if the applicant or, if the applicant has a partner, the applicant's partner—

- (a) is in receipt of—
 - (i) long-term incapacity benefit under section 30A of the SSCBA;
 - (ii) severe disablement allowance under section 68 of that Act;
 - (iii) attendance allowance under sections 64 of that Act;

(1) 2004 c. 21.

(2) 2005 asp 5.

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- (iv) disability living allowance;
 - (v) personal independence payment
 - (vi) an AFIP;
 - (vii) any mobility supplement under article 20 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983;
 - (viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or
 - (ix) main phase employment and support allowance; or
- (b) is or are 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 in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
- (i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;
 - (ii) in any other case, 364 days; or
- (d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 2007 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—
- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act 2007 has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.
- (2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if the applicant has a partner, the applicant's partner has, within a period of 8 weeks ending on the day in respect of which the applicant or the applicant's partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or been in receipt of a reduction under an authority's scheme and—
- (a) £20 was disregarded in respect of earnings taken into account in that award;
 - (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.
- (3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—
- (a) entitlement to housing benefit; or
 - (b) receipt of a reduction under an authority's scheme; or
 - (c) employment,
- following the first day in respect of which that benefit or reduction is awarded under an authority's scheme.

(4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and the applicant's partner satisfy the requirements of this paragraph.

6.—(1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
 - (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
 - (c) paragraph 7 of Schedule 1 (pensioners in receipt of guarantee credit) does not apply,
- the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 1 to 5 and 8 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead of this paragraph.

(3) Notwithstanding paragraph 5 of Schedule 1 (calculation of income and capital: members of applicant's family and of a polygamous marriages), if sub-paragraph (1) applies to one member of a couple (“A”) it is not to apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there is also to be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work..

(5) This sub-paragraph applies to a person who is—

- (a) in receipt of a contributory employment and support allowance;
 - (b) in receipt of incapacity benefit;
 - (c) in receipt of severe disablement allowance;
 - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (6) “Exempt work” means work of the kind described in—
- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)
 - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or that person's partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

7. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 4 had the applicant's income which does not consist of earnings been sufficient to entitle the applicant to the full amount disregarded thereunder.

8. Except where the applicant or the applicant's partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

- (a) £5 is to be disregarded if an applicant who has no partner has earnings;

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(b) £10 is to be disregarded if an applicant who has a partner has earnings.

9. Any earnings, other than earnings referred to in paragraph 11(9)(b) of Schedule 1 (calculation of weekly income: pensioners), derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under an authority's scheme.

10.—(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and the applicant's net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of the applicant's earnings that falls to be disregarded under this Schedule is to be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

(a) the applicant, or if the applicant has a partner, either the applicant or the applicant's partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

(i) is, or any partner of the applicant's is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) if the applicant is a member of a couple—

(aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) the applicant's applicable amount includes a family premium under paragraph 3 of Schedule 2; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if the applicant has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) is satisfied in respect of that person.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) any amount disregarded under this Schedule;

(b) the amount of child care charges calculated as deductible under paragraph 18(1)(c) of Schedule 1 (calculation of income on a weekly basis: pensioners); and

(c) £17.10.

(4) The provisions of regulation 10 (remunerative work) are to apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that regulation was a reference to 30 hours.

11. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.