

## SCHEDULES

### SCHEDULE 1

Regulation 26(2)

#### Meaning of payments in respect of accommodation

##### *General*

#### **Interpretation**

1. In this Schedule—

“approved premises” means hostels which receive Supporting People funding specifically for offenders and allocate bedspaces for criminal justice referrals;

“care home” means a residential care home as defined in Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003<sup>(1)</sup> and includes an independent hospital;

“equity sharing lease” has the meaning given in regulation 27(6) (amount of the housing costs element – renters and owner-occupiers);

“exempt accommodation” has the meaning given in paragraph 4(9) of Schedule 3 to the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006<sup>(2)</sup>;

“housing association” has the meaning given by Article 3 of the Housing (Northern Ireland) Order 1992<sup>(3)</sup>;

“the Housing Executive” means the Northern Ireland Housing Executive;

“independent hospital” has the meaning as defined in Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

“registered charity” means a charity entered in the register of charities maintained under Part 4 of the Charities Act (Northern Ireland) 2008<sup>(4)</sup>;

“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;

“voluntary organisation” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members of the association.

##### *Rent payments*

#### **Rent Payments**

2. “Rent payments” are such of the following as are not excluded by paragraph 3—

(a) payments of rent;

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(1) S.I. 2003/431 (N.I. 9).

(2) S.R. 2006/407.

(3) S.I. 1992/1725 (N.I. 15).

(4) 2008 c. 12 (N.I.) as amended by 2013 c. 3 (N.I.).

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- (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.

### **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 accommodation specified in paragraph 4.
  - (f) payments which, are owner-occupier payments within the meaning of paragraph 5;
  - (g) payments which, are service charge payments within the meaning of paragraph 8.

### **Specified accommodation**

4.—(1) The accommodation referred to in paragraph 3(e) is accommodation to which one or more of the following sub-paragraphs applies.

- (2) This sub-paragraph applies to accommodation which is exempt accommodation.
- (3) This sub-paragraph applies to accommodation—
  - (a) which is provided by a relevant body,
  - (b) into which the claimant has been admitted in order to meet a need for care, support or supervision, and
  - (c) where the claimant receives care, support or supervision.
- (4) This sub-paragraph applies to accommodation which—
  - (a) is provided by the Housing Executive or a relevant body to the claimant because the claimant has left the home as a result of domestic violence, and
  - (b) consists of a building, or part of a building, which is used wholly or mainly for the non-permanent accommodation of persons who have left their homes as a result of domestic violence.
- (5) This sub-paragraph applies to accommodation—
  - (a) which would be a hostel within the meaning of paragraph 28(6) (renters excepted from shared accommodation) of Schedule 4 (housing costs element for renters) but for it being owned or managed by the Housing Executive, and
  - (b) where the claimant receives care, support or supervision.
- (6) In this paragraph—
  - “domestic violence” has the meaning given in regulation 96 (victims of domestic violence);
  - “relevant body” means a—
    - (a) housing association,
    - (b) registered charity, or
    - (c) voluntary organisation.

### *Owner-occupier payments*

#### **Owner-occupier payments**

- 5.—(1) “Owner-occupier payments” are—
- (a) loan interest payments within the meaning of paragraph 6;
  - (b) alternative finance payments within the meaning of paragraph 7.
- (2) Payments are excluded from sub-paragraph (1) if they are service charge payments within the meaning of paragraph 8.

#### **Meaning of “loan interest payments”**

6. “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”**

7.—(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<sup>(5)</sup>.

### *Service charge payments*

#### **Service charge payments**

- 8.—(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 9 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 the 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 6 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,

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(5) 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).

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- (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**

9.—(1) This paragraph applies for the purposes of calculating the amount of the 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 8(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 an equity sharing lease, 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 8 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 5(2).

## SCHEDULE 2

Regulation 26(3)

### Claimant treated as liable or not liable to make payments

## PART I

### Treated as liable to make payments

#### **Certain other persons liable to make payments**

1.—(1) A claimant is to be treated as liable to make payments where the person who is liable to make the payments is—

- (a) any child or qualifying young person for whom the claimant (or if the claimant is a member of a couple, either member) is responsible, or
- (b) in the case of a claimant who is a member of a couple claiming as a single person, the other member of the couple.

(2) Sub-paragraph (1)(b) does not apply to a person who is claiming as a single person by virtue of regulation 3(3) (polygamous marriages).

#### **Failure to pay by the person who is liable**

2.—(1) A claimant is to be treated as liable to make payments where all the conditions specified in sub-paragraph (2) are met.

(2) These are the conditions—

- (a) the person who is liable to make the payments is not doing so;
- (b) the claimant has to make the payments in order to continue occupation of the accommodation;
- (c) the claimant's circumstances are such that it would be unreasonable to expect them to make other arrangements;

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(d) it is otherwise reasonable in all the circumstances to treat the claimant as liable to make the payments.

(3) In determining what is reasonable for the purposes of sub-paragraph (2)(d) in the case of owner-occupier payments, regard may be had to the fact that continuing to make the payments may benefit the person with the liability to make the payments.

#### **Payments waived in return for repair work**

3. A claimant is to be treated as liable to make payments where—

- (a) the liability to make payments is waived by the person (“P”) to whom the liability is owed, and
- (b) the waiver of that liability is by way of reasonable compensation for reasonable repair or re-decoration works carried out by the claimant to the accommodation which P would otherwise have carried out or been required to carry out.

#### **Rent free periods**

4.—(1) Where the arrangements under which the claimant occupies the accommodation provide for rent free periods, the claimant is to be treated as liable to make rent payments and service charge payments in respect of accommodation for the whole of any rent free period.

(2) In sub-paragraph (1) “rent free period” has the meaning given in paragraph 6(5) of Schedule 4.

## **PART 2**

### **Treated as not liable to make payments**

#### **Liability to make rent and other payments to close relative**

5.—(1) A claimant is to be treated as not liable to make rent payments where the liability to make them is owed to a person who lives in the accommodation and who is—

- (a) if the claimant is a member of a couple, the other member, or
- (b) a child or qualifying young person for whom—
  - (i) the claimant is responsible, or
  - (ii) if the claimant is a member of a couple, the other member is responsible, or
- (c) a close relative of—
  - (i) the claimant, or
  - (ii) if the claimant is a member of a couple, the other member, or
  - (iii) any child or qualifying young person who falls within paragraph (b).

(2) A claimant who is treated under sub-paragraph (1) as not liable to make rent payments to any person is also to be treated as not liable to make service charge payments where the liability to make the service charge payments is to the same person.

#### **Liability to make rent and other payments to company**

6.—(1) A claimant is to be treated as not liable to make rent payments where the liability to make them is owed to a company and the owners or directors of the company include—

- (a) the claimant,

- (b) if the claimant is a member of a couple, the other member,
  - (c) a qualifying young person for whom a person who falls within paragraph (a) or (b) is responsible, or
  - (d) a close relative of any of the above who lives in the accommodation with the claimant.
- (2) A claimant who is treated under sub-paragraph (1) as not liable to make rent payments to the company is also to be treated as not liable to make service charge payments where the liability to make the service charge payments is to—
- (a) the same company; or
  - (b) another company of which the owners or directors include any of the persons listed in sub-paragraph (1)(a) to (d).
- (3) In this paragraph, “owner”, in relation to a company (“C”), means a person (“A”) who has a material interest in C.
- (4) For the purposes of sub-paragraph (3), A has a material interest in C if A—
- (a) holds at least 10% of the shares in C, or
  - (b) is able to exercise a significant influence over the management of C by virtue of A’s shareholding in C, or
  - (c) holds at least 10% of the shares in a parent undertaking (“P”) of C, or
  - (d) is able to exercise a significant influence over the management of P by virtue of A’s shareholding in P, or
  - (e) is entitled to exercise, or control the exercise of, voting power in C which, if it consists of voting rights, constitutes at least 10% of the voting rights in C, or
  - (f) is able to exercise a significant influence over the management of C by virtue of A’s entitlement to exercise, or control the exercise of, voting rights in C, or
  - (g) is entitled to exercise, or control the exercise of, voting power in P which, if it consists of voting rights, constitutes at least 10% of the voting rights in P, or
  - (h) is able to exercise a significant influence over the management of P by virtue of A’s entitlement to exercise, or control the exercise of, voting rights in P.
- (5) For the purposes of sub-paragraph (4), references to “A” are to—
- (a) the person, or
  - (b) any of the person’s associates, or
  - (c) the person and any of the person’s associates taken together.
- (6) For the purposes of sub-paragraph (5), “associate”, in relation to a person (“A”) holding shares in an undertaking (“X”) or entitled to exercise or control the exercise of voting power in relation to another undertaking (“Y”), means—
- (a) the spouse or civil partner of A;
  - (b) a child or stepchild of A (if under 18);
  - (c) the trustee of any settlement under which A has a life interest in possession;
  - (d) an undertaking of which A is a director;
  - (e) a person who is an employee or partner of A;
  - (f) if A has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in X or Y, that other person;
  - (g) if A has with any other person an agreement or arrangement under which they undertake to act together in exercising their voting power in relation to X or Y, that other person.

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(7) In sub-paragraph (6)(c), “settlement” means any disposition or arrangement under which property is held on trust (or subject to comparable obligations).

(8) For the purposes of this paragraph—

“parent undertaking” has the same meaning as in the Financial Services and Markets Act 2000<sup>(6)</sup> (see section 420 of that Act);

“shares” means—

- (a) in relation to an undertaking with shares, allotted shares (within the meaning of Part 17 of the Companies Act 2006<sup>(7)</sup>);
- (b) in relation to an undertaking with capital but no share capital, rights to share in the capital of the body;
- (c) in relation to an undertaking without capital, interests—
  - (i) conferring any right to share in the profits, or liability to contribute to the losses, of the body, or
  - (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up;

“voting power”, in relation to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights, means the rights under the constitution of the undertaking to direct the overall policy of the undertaking or alter the terms of its constitution.

### **Liability to make rent and other payments to a trust**

7.—(1) A claimant is to be treated as not liable to make rent payments where the liability to make them is owed to a trustee of a trust and the trustees or beneficiaries of the trust include—

- (a) the claimant,
- (b) if the claimant is a member of a couple, the other member,
- (c) a child or a qualifying young person for whom a person who falls within paragraph (a) or (b) is responsible, or
- (d) a close relative of any of the above who lives in the accommodation with the claimant.

(2) A claimant who is treated under sub-paragraph (1) as not liable to make rent payments to the trustee of a trust is also to be treated as not liable to make service charge payments where the liability to make the service charge payments is to—

- (a) a trustee of the same trust, or
- (b) a trustee of another trust of which the trustees or beneficiaries include any of the persons listed in sub-paragraph (1)(a) to (d).

### **Liability to make owner-occupier and other payments to member of same household**

8.—(1) A claimant is to be treated as not liable to make owner-occupier payments where the liability to make the payments is owed to a person who lives in the claimant’s household.

(2) A claimant who is treated under sub-paragraph (1) as not liable to make owner-occupier payments to any person is also to be treated as not liable to make service charge payments where the liability to make the service charge payments is to the same person.

(3) A claimant is to be treated as not liable to make service charge payments where—

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<sup>(6)</sup> 2000 c. 8.

<sup>(7)</sup> 2006 c. 46.



- (a) there is no liability to make rent payments or owner-occupier payments, but
- (b) the liability to make service charge payments is to a person who lives in the claimant's household.

### **Arrears of payments**

9.—(1) A claimant is to be treated as not liable to make payments in respect of any amount which—

- (a) represents an increase in the sum that would be otherwise payable, and
- (b) is the result of—
  - (i) outstanding arrears of any payment or charge in respect of the accommodation,
  - (ii) outstanding arrears of any payment or charge in respect of other accommodation, previously occupied by the claimant, or
  - (iii) any other unpaid liability to make a payment or charge.

(2) Sub-paragraph (1) does not apply if the claimant is treated as not liable to make the payments under any of the preceding provisions of this Part of this Schedule.

### **Contrived liability**

10.—(1) A claimant is to be treated as not liable to make payments where the Department is satisfied that the liability to make the payments was contrived in order to secure the inclusion of the housing costs element in an award of universal credit or to increase the amount of that element.

(2) Sub-paragraph (1) does not apply if the claimant is treated as not liable to make the payments under any of the preceding provisions of this Part of this Schedule.

## **SCHEDULE 3**

Regulation 26(4)

### **Claimant treated as occupying or not occupying accommodation**

## **PART 1**

### **Treated as occupying accommodation**

#### **The occupation condition: the general rule**

1.—(1) The general rule is that a claimant is to be treated as occupying as their home the accommodation which the claimant normally occupies as their home.

(2) Subject to the following provisions of this Part, no claimant is to be treated as occupying accommodation which comprises more than one dwelling.

(3) Where none of those provisions applies and the claimant occupies more than one dwelling, regard is to be had to all the circumstances in determining which dwelling the claimant normally occupies as their home, including (among other things) any persons with whom the claimant occupies each dwelling.

(4) In this paragraph—

“Dwelling” means a “dwelling house” within the meaning of Article 4 (Interpretation: definition of “dwelling house”, etc.) of, and Schedule 5 to the Rates (Northern Ireland) Order

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1977(8). Dwelling also includes any garage, garden and outbuildings normally occupied by the claimant as his home, including any part thereof not so occupied which it is impracticable or unreasonable to sell separately, together with –

- (a) any agricultural land adjoining that dwelling, and
- (b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately.

### **Claimant living in other accommodation during essential repairs**

2.—(1) Where a claimant—

- (a) is required to move into accommodation (“the other accommodation”) on account of essential repairs being carried out to the accommodation the claimant normally occupies as their home,
- (b) intends to return to the accommodation which is under repair, and
- (c) meets the payment condition and the liability condition in respect of either the other accommodation or the accommodation which they normally occupy as their home (but not both),

the claimant is to be treated as normally occupying as their home the accommodation in respect of which those conditions are met.

(2) A claimant is subject to the general rule in paragraph 1 where—

- (a) sub-paragraph (1)(a) and (b) apply to the claimant; but
- (b) the claimant meets the payment condition and the liability condition in respect of both the other accommodation and the accommodation which they normally occupy as their home.

### **Claimant housed in two dwellings by provider of social housing**

3.—(1) In sub-paragraph (2), “relevant claimant” means a claimant who meets all of the following conditions—

- (a) the first condition is that the claimant has been housed in two dwellings (“accommodation A” and “accommodation B”) by a provider of social housing on account of the number of children and qualifying young persons living with the claimant;
- (b) the second condition is that the claimant normally occupies both accommodation A and accommodation B with children or qualifying young persons for whom the claimant is responsible;
- (c) the third condition is that the claimant meets the payment condition and the liability condition in respect of both accommodation A and accommodation B (and for these purposes it is irrelevant whether the claimant’s liability is to the same or a different person).

(2) In the case of a relevant claimant, both accommodation A and accommodation B are to be treated as the single accommodation which the relevant claimant normally occupies as their home.

(3) In sub-paragraph (1), “provider of social housing” has the meaning given in paragraph 2 of Schedule 4.

### **Moving home: adaptations to new home for disabled person**

4.—(1) Sub-paragraph (2) applies where—

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(8) S.I. 1977/2157 (N.I. 28).

- (a) the claimant has moved into accommodation (“the new accommodation”) and, immediately before the move, met the payment condition and liability condition in respect of the new accommodation, and
  - (b) there was a delay in moving in that it was necessary to enable the new accommodation to be adapted to meet the disablement needs of a person specified in sub-paragraph (3).
- (2) The claimant is to be treated as occupying both the new accommodation and the accommodation from which the move was made (“the old accommodation”) if—
- (a) immediately before the move, the claimant was entitled to the inclusion of the housing costs element in an award of universal credit in respect of the old accommodation, and
  - (b) the delay in moving into the new accommodation was reasonable.
- (3) A person is specified in this sub-paragraph if the person is—
- (a) a claimant or any child or qualifying young person for whom a claimant is responsible, and
  - (b) in receipt of—
    - (i) the care component of disability living allowance at the middle or highest rate,
    - (ii) attendance allowance, or
    - (iii) the daily living component of personal independence payment.
- (4) No claimant may be treated as occupying both the old accommodation and the new accommodation under this paragraph for more than one month.

#### **Claimant living in other accommodation because of reasonable fear of violence**

- 5.—(1) This paragraph applies where—
- (a) a claimant is occupying accommodation (“the other accommodation”) other than the accommodation which they normally occupy as their home (“the home accommodation”), and
  - (b) it is unreasonable to expect the claimant to return to the home accommodation on account of the claimant’s reasonable fear of violence in the home, or by a former partner, against the claimant or any child or qualifying young person for whom the claimant is responsible, but
  - (c) the claimant intends to return to the home accommodation.
- (2) The claimant is to be treated as normally occupying both the home accommodation and the other accommodation as their home if—
- (a) the claimant meets the payment condition and the liability condition in respect of both the home accommodation and other accommodation, and
  - (b) it is reasonable to include an amount in the housing costs element for the payments in respect of both the home accommodation and the other accommodation.
- (3) Where the claimant meets the payment condition and the liability condition in respect of one accommodation only, the claimant is to be treated as normally occupying that accommodation as their home but only if it is reasonable to include an amount in the housing costs element for the payments in respect of that accommodation.
- (4) No claimant may be treated as occupying both the home accommodation and the other accommodation under sub-paragraph (2) for more than 12 months.

#### **Moving in delayed by adaptations to accommodation to meet disablement needs**

- 6.—(1) The claimant is to be treated as having occupied accommodation before they moved into it where—

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- (a) the claimant has since moved in and, immediately before the move, met the payment condition and the liability condition in respect of the accommodation,
  - (b) there was a delay in moving in that was necessary to enable the accommodation to be adapted to meet the disablement needs of a relevant person, and
  - (c) it was reasonable to delay moving in.
- (2) “Relevant person” means a person specified in paragraph 4(3).
- (3) No claimant may be treated as occupying accommodation under this paragraph for more than one month.

#### **Moving into accommodation following stay in hospital or care home**

7.—(1) The claimant is to be treated as having occupied accommodation before they moved into it where—

- (a) the claimant has since moved in and, immediately before the move, met the payment condition and the liability condition in respect of that accommodation, and
  - (b) the liability to make the payments arose while the claimant was a patient or accommodated in a care home (or, in the case of a joint claim, while both joint claimants were patients or were accommodated in a care home).
- (2) No claimant may be treated as occupying the accommodation under this paragraph for more than one month.
- (3) In this paragraph—
- “care home” has the meaning given in paragraph 1 of Schedule 1;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution.

## **PART 2**

### **Treated as not occupying accommodation**

#### **Periods of temporary absence exceeding 6 months**

- 8.—(1) Subject to sub-paragraphs (2) and (3), a claimant is to be treated as no longer occupying accommodation from which they are temporarily absent where the absence exceeds, or is expected to exceed, 6 months.
- (2) Sub-paragraph (1) does not apply to a claimant who falls within paragraph 2.
- (3) Where, a claimant who falls within paragraph 5 is temporarily absent from the accommodation which they normally occupy as their home, the claimant is to be treated as no longer occupying that accommodation where the absence exceeds, or is expected to exceed, 12 months.

## SCHEDULE 4

Regulation 27(2)

### Housing costs element for renters

## PART I

### General

#### Definition of renter

- 1.—(1) This Schedule contains provisions about claimants to whom regulation 27(2) applies.
- (2) Claimants who fall within sub-paragraph (1) are referred to in this Schedule as “renters” (and references to “joint renters” are to joint claimants to whom regulation 27(2) applies).

#### Interpretation

2. In this Schedule—

“exempt accommodation” has the meaning given in paragraph 1 of Schedule 1;

“extended benefit unit” has the meaning given in paragraph 8;

“housing cost contribution” has the meaning given in paragraph 12;

“the Housing Executive” means the Northern Ireland Housing Executive;

“joint renter” has the meaning given in paragraph 1(2);

“listed persons”, in relation to a renter, means—

- (a) the renter,
- (b) where the renter is a member of a couple, the other member of the couple, and
- (c) any child or qualifying young person for whom the renter (or either joint renter) is responsible;

“member of the armed forces” means a member of the regular forces or the reserve forces within the meaning of section 374 of the Armed Forces Act 2006<sup>(9)</sup>;

“non-dependant” has the meaning given in paragraph 8(2);

“provider of social housing” means—

- (a) the Housing Executive; or
- (b) a registered housing association;

“the UC Housing Costs Regulations” means the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016<sup>(10)</sup>;

“registered housing association” means a housing association which is registered in a register maintained under Article 14 of the Housing (Northern Ireland) Order 1992<sup>(11)</sup>;

“relevant payments” has the meaning given in paragraph 3;

“renter” means a single renter within the meaning of paragraph 1(2) or each of joint renters;

“renter who requires overnight care” is to be understood in accordance with paragraph 11(3) to (5);

“shared accommodation” has the meaning given in paragraph 26.

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<sup>(9)</sup> 2006 c.52.

<sup>(10)</sup> S.R. 2016 No. 222.

<sup>(11)</sup> S.I. 1992/1725 (N.I. 15).

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### **“Relevant payments” for purposes of this Schedule**

- 3.—(1) “Relevant payments” means one or more payments of any of the following descriptions—
- (a) rent payments, and
  - (b) service charge payments.
- (2) “Rent payments” in relation to any calculation under Part 4 or 5 of this Schedule, has the meaning given in paragraph 2 of Schedule 1.
- (3) “Service charge payments”—
- (a) for the purposes of calculations under Part 4 of this Schedule, has the meaning given in paragraph 8 of Schedule 1, and
  - (b) for the purposes of calculations under Part 5 of this Schedule, is to be understood in accordance with paragraphs 8 and 9 of Schedule 1.

## **PART 2**

### **Exception to inclusion of housing costs element**

#### **No housing costs element for 16 or 17 year old care leavers**

4. Article 16(1) of the Order (housing costs) does not apply to any renter who is 16 or 17 years old and is a care leaver.

## **PART 3**

### **General provisions about calculation of amount of housing costs element for renters**

#### **Relevant payments to be taken into account**

- 5.—(1) Where a renter meets the payment condition, liability condition and occupation condition in respect of one or more descriptions of relevant payment, each such description is to be taken into account for the purposes of the calculation under Part 4 or 5 of this Schedule.
- (2) No account is to be taken of any amount of a relevant payment to the extent that all of the conditions referred to in sub-paragraph (1) are not met in respect of that amount.
- (3) Any particular payment for which a renter is liable is not to be brought into account more than once whether in relation to the same or a different renter (but this does not prevent different payments of the same description being brought into account in respect of an assessment period).

#### **Relevant payments calculated monthly**

- 6.—(1) Where any relevant payment is to be taken into account under paragraph 5, the amount of that payment is to be calculated as a monthly amount.
- (2) Where the period in respect of which a renter is liable to make a relevant payment is not a month, an amount is to be calculated as the monthly equivalent, so for example—
- (a) weekly payments are multiplied by 52 and divided by 12,
  - (b) two-weekly payments are multiplied by 26 and divided by 12,
  - (c) four-weekly payments are multiplied by 13 and divided by 12,
  - (d) three-monthly payments are multiplied by 4 and divided by 12, and

(e) annual payments are divided by 12.

(3) Where a renter is liable for relevant payments under arrangements that provide for one or more rent free periods, subject to paragraph (4) the monthly equivalent is to be calculated over 12 months by reference to the total number of relevant payments which the renter is liable to make in that 12 month period.

(4) Where sub-paragraph (3) applies and the relevant payments in question are—

(a) weekly payments, the total number of weekly payments which the renter is liable to make in any 12 month period shall be calculated by reference to the formula—

$$52 - RFP;$$

(b) two-weekly payments, the total number of two-weekly payments which the renter is liable to make in any 12 month period shall be calculated by reference to the formula—

$$26 - RFP;$$

(c) four-weekly payments, the total of four-weekly payments which the renter is liable to make in any 12 month period shall be calculated by reference to the formula—

$$13 - RFP$$

Where “RFP” is the number of rent free periods in the 12 month period in question.

(5) “Rent free period” means any period in respect of which the renter has no liability to make one or more of the relevant payments which are to be taken into account under paragraph 5.

#### *Room allocation*

#### **Size criteria applicable to the extended benefit unit of all renters**

7.—(1) In calculating the amount of the renter’s housing costs element under Part 4 or 5 of this Schedule, a determination is to be made in accordance with the provisions referred to in sub-paragraph (2) as to the category of accommodation which it is reasonable for the renter to occupy, having regard to the number of persons who are members of the renter’s extended benefit unit (see paragraph 8).

(2) The provisions referred to in this sub-paragraph are the following provisions of this Schedule—

- (a) in respect of a calculation under Part 4, paragraphs 8 to 11 and 25 to 28;
- (b) in respect of a calculation under Part 5, paragraphs 8 to 11.

#### **Extended benefit unit of a renter for purposes of this Schedule**

8.—(1) For the purposes of this Schedule, the members of a renter’s extended benefit unit are—

- (a) the renter (or joint renters),
- (b) any child or qualifying young person for whom the renter or either joint renter is responsible, and
- (c) any person who is a non-dependant.

(2) A person is a non-dependant if the person normally lives in the accommodation with the renter (or joint renters) and is none of the following—

- (a) a person within sub-paragraph (1)(a) or (b);

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- (b) where the renter is a member of a couple claiming as a single person, the other member of the couple;
  - (c) a foster child;
  - (d) a person who is liable to make payments on a commercial basis in respect of the person's occupation of the accommodation (whether to the renter, joint renters or another person);
  - (e) a person to whom the liability to make relevant payments is owed or a member of their household;
  - (f) a person who has already been treated as a non-dependant in relation to a claim for universal credit by another person liable to make relevant payments in respect of the accommodation occupied by the renter;
  - (g) a child or qualifying young person for whom no-one in the renter's extended benefit unit is responsible.
- (3) "Foster child" means a child in relation to whom the renter (or either joint renter) is a foster parent.

#### **Number of bedrooms to which a renter is entitled**

9.—(1) A renter is entitled to one bedroom for each of the following categories of persons in their extended benefit unit—

- (a) the renter (or joint renters);
- (b) a qualifying young person for whom the renter or either joint renter is responsible;
- (c) a non-dependant who is not a child;
- (d) two children who are under 10 years old;
- (e) two children of the same sex;
- (f) any other child.

(2) A member of the extended benefit unit to whom two or more of the descriptions in sub-paragraph (1) apply is to be allotted to whichever description results in the renter being entitled to the fewest bedrooms.

(3) In determining the number of bedrooms to which a renter is entitled, the following must also be taken into account—

- (a) the provisions of paragraph 10 as to treatment of periods of temporary absence of members of the renter's extended benefit unit;
- (b) any entitlement to an additional bedroom in accordance with paragraph 11;
- (c) for the purpose of any calculation under Part 4 of this Schedule, the additional requirement in paragraphs 25 to 28.

#### **Temporary absence of member of renter's extended benefit unit**

10.—(1) A member of the renter's extended benefit unit who is temporarily absent from the accommodation occupied by the renter is to be included in a determination of the number of bedrooms to which the renter is entitled ("relevant determination") in the circumstances specified in sub-paragraphs (2) to (4).

(2) In the case of a child or qualifying young person the circumstances specified in this sub-paragraph are that the relevant determination relates to any time—

- (a) during the first 6 months of the absence of a child or qualifying young person for whom the renter is treated as not being responsible in accordance with regulation 4(6)(a) (child or qualifying young person looked after by an authority) where, immediately before the



- authority started looking after them, the child or qualifying young person was included in the renter's extended benefit unit and the renter's award included the housing costs element,
- (b) during the first 6 months of the absence of a child or qualifying young person for whom the renter is treated as not being responsible in accordance with regulation 4(6)(b) (child or qualifying young person is a prisoner) where—
- (i) immediately before becoming a prisoner, the child or qualifying young person was included in the renter's extended benefit unit and the renter's award included the housing costs element, and
- (ii) the child or qualifying young person has not been sentenced to a term in custody that is expected to extend beyond that 6 months, or
- (c) before the renter or joint renter ceases to be responsible for a temporarily absent child or qualifying young person in accordance with regulation 4(7) (absence exceeding specified duration).
- (3) In the case of a renter, the circumstances specified in this sub-paragraph are that the relevant determination relates to any time when—
- (a) the temporary absence from Northern Ireland of the renter is disregarded in accordance with regulation 11(1) or (2) (temporary absence from Northern Ireland), or
- (b) the renter is a prisoner to whom regulation 19(2) (existing award includes housing costs when person becomes a prisoner) applies.
- (4) In the case of a non-dependant, the circumstances specified in this sub-paragraph are that—
- (a) the relevant determination relates to any time during a period specified in sub-paragraph (5),
- (b) immediately before the start of that period, the non-dependant was included in the renter's extended benefit unit and, in the circumstances specified in sub-paragraph (5)(a) to (c), the renter's award included the housing costs element.
- (5) The specified periods are—
- (a) the first month of the non-dependant's temporary absence from Northern Ireland and, if the circumstances of the non-dependant are such as would be disregarded for the purposes of regulation 11(2) (death of a close relative), a further one month;
- (b) the first 6 months of the non-dependant's temporary absence from Northern Ireland in the circumstances described in regulation 11(3)(a) (absence solely in connection with treatment for illness or physical or mental impairment);
- (c) the first 6 months that the non-dependant is a prisoner where the non-dependant has not been sentenced to a term in custody that is expected to extend beyond that 6 months;
- (d) any period during which a non-dependant who is the son, daughter, step-son or step-daughter of a renter or joint renters is a member of the armed forces away on operations.
- (6) Any non-dependant who is temporarily absent from the accommodation occupied by the renter in circumstances other than those specified in sub-paragraphs (4) and (5) is not to be treated as being a member of the renter's extended benefit unit if that absence exceeds, or is expected to exceed, 6 months.

#### **Additional room**

11.—(1) A renter is entitled to an additional bedroom if they satisfy any of the following conditions—

- (a) the overnight care condition (see sub-paragraph (3));

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- (b) the foster parent condition (see sub-paragraphs (4) and (5)); or
  - (c) the disabled child condition (see sub-paragraph (6)).
- (2) Sub paragraph (1) applies subject to sub-paragraphs (7) to (9)
- (3) A renter satisfies the overnight care condition if—
- (a) they are in receipt of—
    - (i) the care component of disability living allowance at the middle or highest rate;
    - (ii) attendance allowance; or
    - (iii) the daily living component of personal independence payment;
  - (b) one or more persons who do not live in the renter's accommodation are engaged to provide overnight care for the renter and to stay overnight in the accommodation on a regular basis; and
  - (c) overnight care is provided under arrangements entered into for that purpose.
- (4) A renter satisfies the foster parent condition if the renter is—
- (a) a foster parent; or
  - (b) an adopter with whom a child has been placed for adoption.
- (5) For the purposes of sub-paragraph (4) “foster parent” includes a person who would be a foster parent, but for the fact that they do not currently have any child placed with them, provided that any period since the date when their last placement ended (or, if they have not yet had a child placed with them, since the date when they were approved to be a foster parent) does not exceed 12 months.
- (6) A renter satisfies the disabled child condition if they or another member of their extended benefit unit are responsible for a child who would (but for the provisions of this paragraph) be expected to share a bedroom and that child is—
- (a) in receipt of the care component of disability living allowance at the middle or highest rate; and
  - (b) by virtue of their disability, not reasonably able to share a room with another child.
- (7) Where a renter, or one or both of joint renters, satisfy—
- (a) the overnight care condition; or
  - (b) the foster parent condition,
- or both, they are entitled to one additional bedroom by virtue of satisfying each condition.
- (8) Where a renter, or one or both of joint renters, satisfy the disabled child condition in relation to one or more children, they are entitled to as many additional bedrooms as are necessary to ensure that each such child has their own bedroom.
- (9) Where a renter, or one or both of joint renters, satisfy two or more of—
- (a) the overnight care condition;
  - (b) the foster parent condition; or
  - (c) the disabled child condition,
- the total number of additional bedrooms they are entitled to is determined by adding together the number of additional bedrooms which they are entitled to by virtue of satisfying each of those conditions.

## *Housing cost contributions*

### **Housing cost contributions**

12.—(1) In calculating the amount of the housing costs element under Part 4 or 5 of this Schedule, a deduction is to be made in respect of each non-dependant who is a member of the renter's extended benefit unit.

(2) Sub-paragraph (1) is subject to paragraphs 14 and 15.

(3) Any amount to be deducted under sub-paragraph (1) is referred to in this Schedule as a "housing cost contribution".

### **Amount of housing cost contributions**

13.—(1) The amount of each housing cost contribution to be deducted under paragraph 12 is £69.37.

(2) Deductions are not to be made until the amount has been determined which results from all other steps in the calculation required in relation to the renter under Parts 4 and 5 of this Schedule.

(3) Where the sum of all the housing cost contributions to be deducted in the renter's case exceeds the amount referred to in sub-paragraph (2)—

- (a) the amount determined under this Schedule is to be reduced to nil; but
- (b) no further reduction in respect of housing cost contributions is to be made from the renter's award.

### **Exempt renters**

14.—(1) No deduction is to be made under paragraph 12 in the case of—

- (a) any renter who is a single person to whom sub-paragraph (2) applies; or
- (b) any joint renter where at least one joint renter is a person to whom sub-paragraph (2) applies.

(2) This sub-paragraph applies to a person—

- (a) who is blind;
- (b) in receipt of the care component of disability living allowance at the middle or highest rate;
- (c) in receipt of attendance allowance;
- (d) in receipt of the daily living component of a personal independence payment;
- (e) who is entitled to a payment within paragraph (b), (c) or (d) but is not receiving it under, as the case may be—
  - (i) regulation 8 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992<sup>(12)</sup>,
  - (ii) regulation 6 of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992<sup>(13)</sup>,
  - (iii) regulation 19 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984<sup>(14)</sup>, or

<sup>(12)</sup> SR. 1992 No. 32; regulation 8 was amended by regulation 3(2) of S.R. 1992 No. 481, regulation 4(2) of S.R. 1999 No. 221 and regulation 3(2) of S.R. 2000 No. 195.

<sup>(13)</sup> S.R. 1992 No. 20; regulation 6 was amended by regulation 2(2) of S.R. 1992 No. 481, regulation 3 of S.R. 1999 No. 221 and regulation 2(3) of S.R. 2000 No. 195.

<sup>(14)</sup> S.R. 1984 No. 92.

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(iv) regulations under Article 91 of the Order (hospital in-patients).

### **No deduction for housing cost contributions in respect of certain non-dependants**

15.—(1) No deduction is to be made under paragraph 12 in respect of any non-dependant who is a member of the renter's extended benefit unit to whom sub-paragraph (2) applies.

(2) This sub-paragraph applies to a person—

- (a) who is under 21 years old;
- (b) in receipt of state pension credit;
- (c) in receipt of the care component of disability living allowance at the middle or highest rate;
- (d) in receipt of attendance allowance;
- (e) in receipt of the daily living component of personal independence payment;
- (f) who is entitled to a payment within paragraph (c), (d) or (e) but is not receiving it under, as the case may be—
  - (i) regulation 8 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992,
  - (ii) regulation 6 of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992,
  - (iii) regulation 19 of the Social Security (General Benefit) Regulations 1982, or
  - (iv) regulations under Article 91 of the Order;
- (g) in receipt of carer's allowance;
- (h) is a prisoner;
- (i) is responsible for a child under 5 years old;
- (j) is a member of the armed forces away on operations who—
  - (i) is the son, daughter, step-son or step-daughter of a renter or joint renters, and
  - (ii) resided with the renter or joint renters immediately before leaving to go on operations and intends to return to reside with the renter or joint renters at the end of the operations.

### *Calculation involving more than one accommodation*

#### **Single calculation for renter treated as occupying single accommodation**

16.—(1) This paragraph applies to any renter where, under paragraph 3, of Schedule 3 (claimant housed in two dwellings by provider of social housing), two dwellings ("accommodation A" and "accommodation B") occupied by a renter are treated as the single accommodation in respect of which the renter meets the occupation condition.

(2) The amount of the renter's housing costs element is to be determined by a single calculation in respect of accommodation A and accommodation B as if they were one, taking account of—

- (a) all relevant payments in respect of accommodation A and all relevant payments in respect of accommodation B, and
- (b) the total number of bedrooms in accommodation A and accommodation B taken together.

(3) The single calculation is to be made under Part 5 of this Schedule in any case where—

- (a) the renter's liability to make rent payments in respect of accommodation A and accommodation B is to a provider of social housing, and

- (b) neither accommodation A nor accommodation B is temporary accommodation within the meaning of paragraph 20.
- (4) In any other case, the single calculation is to be made under Part 4 of this Schedule.

**Calculation where move to new accommodation delayed for adaptations for disabled person**

17.—(1) Sub-paragraph (2) applies to any renter where, under paragraph 4 of Schedule 3 (moving home: adaptations to new home for disabled persons), the renter meets the occupation condition in respect of both the new accommodation and the old accommodation.

(2) The amount of the renter's housing costs element under this Schedule is to be calculated as follows.

*Step 1*

Calculate an amount in accordance with Part 4 or Part 5 of this Schedule (as the case may be) in respect of both—

- (a) (a) the new accommodation, and
- (b) (b) the old accommodation.

*Step 2*

Add together the amounts determined in step 1.

*Step 3*

If a deduction was made for housing cost contributions in respect of both the new accommodation and the old accommodation, take the amount of the housing cost contributions deducted in respect of the new accommodation and add that to the amount resulting from step 2.

(3) In this paragraph, references to “the new accommodation” and “the old accommodation” are to be understood in accordance with paragraph 4 of Schedule 3.

**Calculation where renter moves out because of reasonable fear of violence**

18.—(1) Sub-paragraph (2) applies to any renter where, under paragraph 5(2) of Schedule 3, (claimant living in other accommodation because of reasonable fear of violence), the renter meets the occupation condition in respect of both the home accommodation and the other accommodation.

(2) The amount of the renter's housing costs element under this Schedule is to be calculated as follows.

*Step 1*

Calculate an amount in accordance with Part 4 or Part 5 of this Schedule (as the case may be) in respect of—

- (a) (a) the home accommodation, and
- (b) (b) the other accommodation.

*Step 2*

Add together the amounts determined in step 1.

*Step 3*

If a deduction was made for housing cost contributions in respect of both the home accommodation and the other accommodation—

- (c) (c) determine which accommodation the renter normally occupies as their home, and

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- (d) (d) take the amount of the housing cost contributions deducted in respect of the accommodation not so occupied and add that to the amount resulting from step 2.
- (3) In this paragraph, references to “the home accommodation” and “the other accommodation” are to be understood in accordance with paragraph 5 of Schedule 3.

## PART 4

### Private rented sector and temporary accommodation

#### Application of Part 4

- 19.—(1) This Part applies to—
  - (a) renters who are liable to make rent payments to a person other than a provider of social housing, and
  - (b) renters who meet the occupation condition in respect of temporary accommodation (see paragraph 20).
- (2) Sub-paragraph (1) applies irrespective of whether renters are also liable to make service charge payments.

#### Meaning of “temporary accommodation”

- 20.—(1) Accommodation is temporary accommodation for the purposes of paragraph 19(1)(b) if it falls within Case 1 or 2.
- (2) Case 1 is where—
  - (a) rent payments are payable to the Housing Executive, and
  - (b) the Housing Executive makes the accommodation available to the renter—
    - (i) to discharge any of its functions under Part II of the Housing (Northern Ireland) Order 1988<sup>(15)</sup>, or
    - (ii) to prevent the person being or becoming homeless within the meaning of Part II of that Order; and
  - (c) the accommodation is not exempt accommodation.
- (3) Case 2 is where—
  - (a) rent payments are payable to a registered housing association,
  - (b) the registered housing association makes the accommodation available to the renter in pursuance of arrangements made with it by the Housing Executive—
    - (i) to discharge any of the Housing Executive’s functions under Part II of the Housing (Northern Ireland) Order 1988, or
    - (ii) to prevent the renter being or becoming homeless within the meaning of Part II of that Order; and
  - (c) the accommodation is not exempt accommodation.
- (4) Sub-paragraph (1) applies irrespective of whether the renter is also liable to make service charge payments.

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(15) S.I. 1988/1990 (N.I. 23).

*The calculation of the housing costs element under this Part*

**The amount of housing costs element under this Part**

21. The amount of the renter's housing costs element under this Part is to be calculated as follows.

*Step 1*

Determine—

- (a) (a) the amount of the renter's core rent, and
- (b) (b) the amount of the renter's cap rent,

and identify which is the lower amount (if both amounts are the same, that is the identified amount).

*Step 2*

Deduct the sum of the housing cost contributions (if any) under paragraph 12 from the amount identified in step 1.

The result is the amount of the renter's housing costs element calculated under this Part.

**Core rent**

22. Except where paragraph 23 applies, the renter's core rent is to be determined as follows—

*Step 1*

Determine the amount of each relevant payment to be taken into account under paragraph 5.

*Step 2*

Determine the period in respect of which each relevant payment is payable and, in accordance with paragraph 6, determine the amount of the payment in respect of a month.

*Step 3*

If there is more than one relevant payment, add together the amounts determined in step 2 in relation to all relevant payments.

The result is the renter's core rent.

**Core rent for joint tenants**

23.—(1) This paragraph applies where, in respect of the accommodation occupied by the renter, one or more persons other than the renter are liable to make relevant payments which are of the same description as those for which the renter is liable and which are to be taken into account under paragraph 5.

(2) The following steps are to be taken in order to determine the renter's core rent.

*Step 1*

Determine the total of all relevant payments referred to in sub-paragraph (1) for which the renter and others are liable in respect of the accommodation taken as a whole.

*Step 2*

Determine the period in respect of which each relevant payment is payable and, in accordance with paragraph 6, determine the amount of the payment in respect of a month.

*Step 3*

Add together all of the amounts determined in step 2 in relation to all relevant payments.

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#### Step 4

Find the allocated amount in accordance with whichever of sub-paragraphs (3) to (5) applies in the renter's case.

The result is the renter's core rent.

(3) Where the only persons liable to make relevant payments are listed persons, the allocated amount is the amount resulting from step 3 in sub-paragraph (2).

(4) Where the persons liable for the relevant payments are one or more listed persons and one or more other persons, the allocated amount is to be found by applying the formula—

$$\left(\frac{A}{B}\right) \times C$$

where—

“A” is the amount resulting from step 3 in sub-paragraph (2),

“B” is the total number of all persons (including listed persons) liable to make the relevant payments, and

“C” is the number of listed persons liable to make relevant payments.

(5) If the Department is satisfied that it would be unreasonable to allocate the amount resulting from step 3 in sub-paragraph (2) in accordance with sub-paragraph (4), that amount is to be allocated in such manner as it considers appropriate in all the circumstances, having regard (among other things) to the number of persons liable and the proportion of the relevant payments for which each of them is liable.

#### Cap rent

24.—(1) The renter's cap rent is to be determined as follows.

#### Step 1

Determine the category of accommodation to which the renter is entitled under paragraphs 7 to 11 and paragraphs 25 to 28.

#### Step 2

Having regard to the determination at step 1, determine the maximum allowable amount for the renter under sub-paragraph (2) or (4) (as the case may be).

The result is the renter's cap rent.

(2) The maximum allowable amount to be used in relation to the renter is the local housing allowance which applies at the relevant time to—

- (a) the broad rental market area in which the renter's accommodation is situated, and
- (b) the category of accommodation determined at step 1 as that to which the renter is entitled.

(3) The maximum allowable amount in relation to the renter is to be determined under sub-paragraph (4) in any case where—

- (a) paragraph 3 (claimant housed in two dwellings by provider of social housing) of Schedule 3 applies to the renter, and
- (b) the maximum allowable amount determined under sub-paragraph (2) for the renter in relation to accommodation A and the amount so determined in relation to accommodation B are different (references to accommodation A and accommodation B are to be understood in accordance with paragraph 3 of Schedule 3), and
- (c) a single calculation is to be made in relation to the renter under paragraph 16 (renter treated as occupying single accommodation).



(4) In any such case, the maximum allowable amount to be used in making the single calculation required by paragraph 16—

- (a) is to be determined by reference to the accommodation for which the amount referred to in sub-paragraph (3)(b) is lower when the calculation is first made, and
- (b) is to continue to be determined by reference to that accommodation for so long as paragraph 3 of Schedule 3 applies to the renter in respect of the same accommodation A and the same accommodation B, and
- (c) is to be re-determined in accordance with paragraphs (a) and (b) on each occasion when the renter is re-housed in any other accommodation, provided that paragraph 3 of Schedule 3 continues to apply to the renter.

(5) In this paragraph—

“broad rental market area” means the broad rental market area to be determined under regulation 3 of the UC Housing Costs Regulations;

“local housing allowance” in relation to a broad rental market area, means the amount to be determined by a rent officer for that area under regulation 4 of the UC Housing Costs Regulations;

“relevant time” means the time at which the amount of the renter’s housing costs element is calculated under paragraph 21.

*Further provisions about size criteria for cases to which this Part applies*

#### **Four bedroom limit**

25. In calculating the amount of a renter’s housing costs element under paragraph 21, no renter is entitled to more than 4 bedrooms.

#### **Specified renters entitled to shared accommodation only**

26.—(1) In calculating the amount of a renter’s housing costs element under paragraph 21, any specified renter (within the meaning of paragraph 27) is entitled to shared accommodation only.

(2) “Shared accommodation” means the category of accommodation specified in paragraph 1(a) of Schedule 1 to the UC Housing Costs Regulations.

#### **Meaning of “specified renters”**

27.—(1) For the purposes of paragraph 26 “specified renter” means a renter in respect of whom all of the following conditions are met.

(2) The first condition is that the renter is a single person (or a member of a couple claiming as a single person) who—

- (a) is under 35 years old, and
- (b) is not an excepted person under paragraph 28.

(3) The second condition is that the renter is not responsible for any children or qualifying young persons.

(4) The third condition is that no person is a non-dependant in relation to the renter.

#### **Renters excepted from shared accommodation**

28.—(1) “Excepted person” means any renter (“E”) who falls within any of sub-paragraphs (2) to (5).

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(2) E is at least 18 but under 22 years old and was a care leaver (within the meaning of regulation 8) before reaching the age of 18.

(3) E is at least 25 but under 35 years old and—

- (a) has, for a total of at least 3 months (whether or not continuously), lived in one or more hostels for homeless people, and
- (b) whilst E was living in such a hostel, was offered and has accepted support services which the Department considers are intended to assist E to be rehabilitated or resettled within the community.

(4) E is under 35 years old and is in receipt of—

- (a) the care component of disability living allowance at the middle or highest rate;
- (b) attendance allowance, or
- (c) the daily living component of personal independence payment.

(5) E is under 35 years old and he is the subject of risk management pursuant to arrangements established under Part 3 of the Criminal Justice (Northern Ireland ) Order 2008<sup>(16)</sup>

(6) In this paragraph—

“care home”, “registered charity” and “voluntary organisation” have the meaning given in Schedule 1;

“hostel” means a building—

- (a) in which there is provided, for persons generally or for a class of persons, domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both;
- (b) which is—
  - (i) managed or owned by a registered housing association,
  - (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency, the Housing Executive or a Regional Health and Social Care Board or Health and Social Care Trust, or
  - (iii) managed by a voluntary organisation or registered charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community, and
- (c) which is not a care home;

“hostel for homeless people” means a hostel the main purpose of which is to provide accommodation together with care, support or supervision for homeless people with a view to assisting such persons to be rehabilitated or resettled within the community.

## PART 5

### Social rented sector other than temporary accommodation

#### Application of Part 5

29.—(1) This Part—

- (a) applies to renters who are liable to make rent payments to a provider of social housing; but

<sup>(16)</sup> S.I. 2008/1216 (N.I.1).

- (b) does not apply to any renter who falls within paragraph 19(1)(b) (temporary accommodation).
- (2) Sub-paragraph (1) applies irrespective of whether renters are also liable to make service charge payments.

*Reduction in certain cases of amounts to be taken into account*

**Deduction from relevant payments of amounts relating to use of particular accommodation**

30. In determining the amount of any relevant payment to be taken into account under paragraph 5, a deduction is to be made for any amount which the Department is satisfied—

- (a) is included in the relevant payment, but
- (b) relates to the supply to the accommodation of a commodity (such as water or fuel) for use by any member of the renter's extended benefit unit.

**Relevant payments excessive**

31. Where it appears to the Department that—

- (a) the amount of any relevant payment for which the renter is liable in respect of accommodation occupied by the renter is greater than it is reasonable to meet by way of the housing costs element under this Part, and
- (b) the amount of the relevant payment that, at the time of the calculation under this Part, a landlord might reasonably have expected to obtain is a lower amount,

the lower amount is to be used in making the calculation under this Part instead of the amount of the relevant payment for which the renter is liable, unless the Department is satisfied that it is not appropriate to use that lower amount.

*The calculation of the housing costs element under this Part*

**The amount of housing costs element**

32.—(1) The amount of the renter's housing costs element under this Part is to be calculated by reference to the formula—

$$S - HCC$$

where—

- “S” is the amount resulting from whichever of paragraph 33 or 34 applies in the renter's case,
- “HCC” is the sum of the housing cost contributions (if any) under paragraph 12.

**Determining the amount from which HCC deductions are to be made**

33. Except where paragraph 34 applies, amount S referred to in paragraph 32 is to be found as follows—

*Step 1*

Determine which relevant payments are to be taken into account under paragraph 5 and determine the amount of each of them (applying paragraphs 30 and 31 as necessary).

*Step 2*

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Determine the period in respect of which each relevant payment is payable and, in accordance with paragraph 6, determine the amount of the payment in respect of a month.

*Step 3*

If there is more than one relevant payment, add together the amounts determined in step 2 in relation to all relevant payments.

*Step 4*

Determine under paragraph 35(1) whether an under-occupation deduction is to be made and, if one is to be made, determine the amount of the deduction under paragraph 35(2) and deduct it from the amount resulting from step 2 or 3 (as the case may be).

The result is amount S from which the sum of the housing cost contributions are to be deducted under paragraph 32.

**Determining the amount from which HCC deductions are to be made: joint tenants**

34.—(1) This paragraph applies where, in respect of the accommodation occupied by the renter, one or more persons other than the renter is liable to make relevant payments which are of the same description as those for which the renter is liable and which are to be taken into account under paragraph 5.

(2) Amount S referred to in paragraph 32 is to be found as follows.

*Step 1*

Determine the total of all relevant payments referred to in sub-paragraph (1) for which the renter and others are liable in respect of the accommodation taken as a whole (applying paragraphs 30 and 31 as necessary).

*Step 2*

Determine the period in respect of which each relevant payment is payable and, in accordance with paragraph 6, determine the amount of the payment in respect of a month.

*Step 3*

Add together all of the amounts determined in step 2 in relation to all relevant payments.

*Step 4*

Find amount S in accordance with whichever of sub-paragraphs (3) to (5) applies in the renter's case.

The result is amount S from which the sum of the housing cost contributions are to be deducted under paragraph 32.

(3) Where the only persons liable to make relevant payments are listed persons, amount S is the amount resulting from step 3 in sub-paragraph (2) less the amount of the under-occupation deduction (if any) required by paragraph 35.

(4) Where the persons liable for the relevant payments are one or more listed persons and one or more other persons, amount S is to be found by the applying the formula—

$$\left(\frac{A}{B}\right) \times C$$

where—

“A” is the amount resulting from step 3 in sub-paragraph (2),

“B” is the total number of all persons (including listed persons) liable to make the relevant payments, and

“C” is the number of listed persons.

(5) If the Department is satisfied that it would be unreasonable to determine amount S in accordance with sub-paragraph (4), amount S is to be determined in such manner as the Department considers appropriate in all the circumstances, having regard (among other things) to the number of persons liable and the proportion of the relevant payments for which each of them is liable.

### **Under-occupancy deduction**

35.—(1) A deduction for under-occupancy is to be made under this paragraph where the number of bedrooms in the accommodation exceeds the number of bedrooms to which the renter is entitled under paragraphs 7 to 11.

(2) Where a deduction is to be made, the amount of the deduction is to be determined by the formula—

$$A \times B$$

where—

“A”—

- (a) in relation to any deduction under paragraph 33, is the amount resulting from step 2 or 3 in that paragraph (as the case may be), or
- (b) in relation to any deduction under paragraph 34(3), is the amount resulting from step 3 in paragraph 34(2);

“B” is the relevant percentage.

(3) The relevant percentage is 14% in the case of one excess bedroom.

(4) The relevant percentage is 25% in the case of 2 or more excess bedrooms.

(5) No deduction for under-occupation is to be made in calculating the amount of the renter’s housing costs element under this Part in any case to which regulation 27(4) to (6) (equity-sharing lease) applies.

## **SCHEDULE 5**

Regulation 27(3)

### **Housing costs element for owner-occupiers**

## **PART I**

### **General**

#### **Definition of Owner-occupier**

1.—(1) This Schedule contains provisions about claimants to whom regulation 27(3) applies.

(2) Claimants who fall within sub-paragraph (1) are referred to in this Schedule as “owner-occupiers” (and references to “joint owner-occupiers” are to joint claimants to whom regulation 27(3) applies).

#### **Interpretation**

2. In this Schedule—

“alternative finance arrangements” has the meaning as given in paragraph 7(2) of Schedule 1;

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- “alternative finance payments” has the meaning given in paragraph 7 of Schedule 1;
- “joint owner-occupier” has the meaning given in paragraph 1(2);
- “loan interest payments” has the meaning given in paragraph 6 of Schedule 1;
- “owner-occupier” means a single owner-occupier within the meaning of paragraph 1(2) or each of joint owner-occupiers;
- “qualifying period” has the meaning given in paragraph 5(2);
- “relevant date” means, in relation an owner-occupier, the date on which an amount of housing costs element calculated under this Schedule is first included in the owner occupier’s award;
- “relevant payments” has the meaning given in paragraph 3;
- “standard rate” has the meaning given in paragraph 12.

### **Relevant payment for the purposes of this schedule**

- 3.—(1) “Relevant payments” means one or more payments of any of the following descriptions—
- (a) owner-occupier payments;
  - (b) service charge payments.
- (2) “Owner-occupier payments” has the meaning given in paragraph 5 of Schedule 1.
- (3) “Service charge payments” is to be understood in accordance with paragraphs 8 and 9 of that Schedule.

## **PART 2**

### **Exception to inclusion of housing costs element**

#### **No housing costs element where owner-occupier has any earned income**

- 4.—(1) Article 16(1) of the Order (housing costs) does not apply to any owner-occupier in relation to an assessment period where—
- (a) the owner-occupier has any earned income, or
  - (b) if the owner-occupier is a member of a couple, either member of the couple has any earned income.
- (2) Sub-paragraph (1) applies irrespective of the nature of the work engaged in, its duration or the amount of the earned income.
- (3) Nothing in this paragraph prevents an amount calculated under Schedule 4 from being included in the award of any claimant who falls within regulation 27(4) to (6) (equity-sharing lease).

## **PART 3**

### **No housing costs element for qualifying period**

#### **No housing costs element under this Schedule for qualifying period**

- 5.—(1) An owner-occupier’s award of universal credit is not to include any amount of housing costs element calculated under this Schedule until the beginning of the assessment period that follows the assessment period in which the qualifying period ends.
- (2) “Qualifying period” means a period of—

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- (a) in the case of a new award, 9 consecutive assessment periods in relation to which—
    - (i) the owner-occupier has been receiving universal credit, and
    - (ii) would otherwise qualify for the inclusion of an amount calculated under this Schedule in their award;
  - (b) in any case where an amount calculated under this Schedule has for any reason ceased to be included in the award, 9 consecutive assessment periods in relation to which the owner-occupier would otherwise qualify for the inclusion of an amount calculated under this Schedule in their award.
- (3) Where, before the end of a qualifying period, an owner-occupier for any reason ceases to qualify for the inclusion of an amount calculated under this Schedule—
- (a) that qualifying period stops running, and
  - (b) a new qualifying period starts only when the owner-occupier again meets the requirements of sub-paragraph (2)(a) or (b).

#### **Application of paragraph 5: receipt of JSA and ESA**

6.—(1) This paragraph applies to any owner-occupier who immediately before the commencement of an award of universal credit is entitled to—

- (a) a jobseeker's allowance, or
- (b) an employment and support allowance.

(2) In determining when the qualifying period in paragraph 5 ends in relation to the owner-occupier, any period that comprises only days on which the owner-occupier was receiving a benefit referred to in sub-paragraph (1) may be treated as if it were the whole or part of one or more assessment periods, as determined by the number of days on which any such benefit was received.

#### **Application of paragraph 5: joint owner-occupiers ceasing to be a couple**

7.—(1) This paragraph applies where—

- (a) an award of universal credit to joint owner-occupiers is terminated because they cease to be a couple, and
- (b) a further award is made to one of them (or to each of them), and
- (c) in relation to the further award (or in relation to each further award), the occupation condition is met in respect of the same accommodation as that occupied by the joint owner-occupiers as their home.

(2) In determining when the qualifying period in paragraph 5 ends in relation to the further award (or each further award), the whole or part of any assessment period which would have counted in relation to the award that is terminated is to be carried forward and taken into account in relation to the further award (or each further award).

(3) But where, immediately before the joint owner-occupier's award was terminated, an amount of housing costs element calculated under this Schedule was already included in the award; no qualifying period under paragraph 5 applies to the owner-occupier in relation to the commencement of the further award (or each further award).

(4) For the purposes of sub-paragraph (1)(b), it is irrelevant whether the further award—

- (a) is made on a claim, or
- (b) by virtue of regulation 9(6) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 is made without a claim.

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## PART 4

### Calculation of amount of housing costs element for owner-occupiers

#### Payments to be taken into account

8.—(1) Where an owner-occupier meets the payment condition, liability condition and occupation condition in respect of one or more relevant payments and the qualifying period has ended, each of the relevant payments is to be taken into account for the purposes of the calculation under this Part.

(2) No account is to be taken of any amount of a relevant payment to the extent that the conditions referred to in sub-paragraph (1) are not met in respect of that amount.

(3) Any particular payment for which an owner-occupier is liable is not to be brought into account more than once, whether in relation to the same or a different owner-occupier (but this does not prevent different payments of the same description being brought into account in respect of an assessment period).

#### The amount of a housing costs element

9. The amount of the owner-occupier's housing costs element under this Schedule is the aggregate of the amounts resulting from paragraphs 10, 11 and 13 in respect of all relevant payments which are to be taken into account under paragraph 8.

#### Amount in respect of interest on loans

10.—(1) This paragraph provides for the calculation of the amount to be included in the owner-occupier's housing costs element under this Schedule in respect of relevant payments which are loan interest payments.

(2) Subject to sub-paragraphs (3) to (5), the amount in respect of the loan or loans to which the payments relate is to be calculated as follows.

##### Step 1

Determine the amount of the capital for the time being owing in connection with each loan.

##### Step 2

If there is more than one loan, add together the amounts determined in Step 1.

##### Step 3

Identify which is the lower of these 2 amounts—

- (a) (a) the amount resulting from Step 1 or 2 (as the case may be), and
- (b) (b) £200,000,

and, if both amounts are the same, that is the identified amount.

##### Step 4

Apply the formula—

$$\frac{(A \times SR)}{12}$$

where—

“A” is the amount resulting from Step 3,



“SR” is the standard rate that applies at the date of the determination (see paragraph 12).

The result is the amount to be included under this Schedule in respect of loan interest payments.

(3) In the application of sub-paragraph (2) to a loan (or any part of a loan) which was taken out for the purpose of making necessary adaptations to the accommodation to meet the disablement needs of a person specified in paragraph 4(3) of Schedule 3—

- (a) the loan (or the part of the loan) is to be disregarded for the purposes of steps 2 and 3, and
- (b) “A” in step 4 is to be read as the amount resulting from step 1 in respect of the loan (or the sum of those amounts if there is more than one loan taken out for the purpose of making such adaptations) plus the amount (if any) resulting from step 3 in relation to any other loan or loans.

(4) Any variation in the amount of capital for the time being owing in connection with a loan is not to be taken into account after the relevant date until such time as the Department recalculates the amount under this Schedule by reference to the amount of capital owing in connection with the loan—

- (a) on the first anniversary of the relevant date, or
- (b) in respect of any variation after the first anniversary, on the next anniversary which follows the date of the variation.

#### **Amount in respect of alternative finance arrangements**

11.—(1) This paragraph provides for the calculation of the amount to be included in the owner-occupier’s housing costs element under this Schedule in respect of relevant payments which are alternative finance payments.

(2) The amount in respect of the alternative finance arrangements to which the payments relate is to be calculated as follows—

##### *Step 1*

Determine the purchase price of the accommodation to which the alternative finance payments relate.

##### *Step 2*

Identify which is the lower of these 2 amounts—

- (a) (a) the amount resulting from Step 1, and
- (b) (b) £200,000,

and, if both amounts are the same, that is the identified amount.

##### *Step 3*

Apply the formula—

$$\frac{(A \times SR)}{12}$$

where—

“A” is the amount resulting from step 2,

“SR” is the standard rate that applies at the date of the calculation (see paragraph 12).

The result is the amount to be included under this Schedule in respect of alternative finance payments.

(3) “Purchase price” means the price paid by a party to the alternative financial arrangements other than the owner-occupier in order to acquire the interest in the accommodation to which those arrangements relate less—

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- (a) the amount of any initial payment made by the owner-occupier in connection with the acquisition of that interest, and
  - (b) the amount of any subsequent payments made by the owner-occupier before the relevant date to another party to the alternative finance arrangements which reduced the amount owned by the owner-occupier under the alternative finance arrangements.
- (4) Any variation in the amount for the time being owing in connection with alternative finance arrangements is not to be taken into account after the relevant date until such time as the Department recalculates the amount under this Schedule by reference to the amount that is owing in connection with the alternative finance arrangements—
- (a) on the first anniversary of the relevant date, or
  - (b) in respect of any variation after the first anniversary, or the next anniversary which follows the date of the variation.

### **Standard rate to be applied under paragraphs 10 and 11**

12.—(1) The standard rate is the average mortgage rate published by the Bank of England which, immediately before this Schedule comes into operation, has effect for the purposes of paragraph 12 of Schedule 3 to the Income Support (General) Regulations (Northern Ireland) 1987<sup>(17)</sup> (which makes provision as to the standard rate to be used in determining amounts applicable to a claimant in respect of income support).

(2) The standard rate is to be varied each time that sub-paragraph (3) applies.

(3) This sub-paragraph applies when, on any reference day, the Bank of England publishes an average mortgage rate which differs by 0.5 percentage points or more from the standard rate that applies on that reference day (whether it applies by virtue of sub-paragraph (1) or by virtue of a previous application of this sub-paragraph).

(4) The average mortgage rate published on that reference day then becomes the new standard rate in accordance with sub-paragraph (5).

(5) Any variation in the standard rate by virtue of sub-paragraphs (2) to (4) comes into effect—

- (a) for the purposes of sub-paragraph (3), the day after the reference day referred to in sub-paragraph (4);
- (b) for the purpose of calculating the amount of the housing costs element to be included under this Schedule in an owner-occupier's award, on the day specified by the Department for that purpose.

(6) At least 7 days before a variation of the standard rate comes into effect under sub-paragraph (5)(b), the Department must arrange for notice to be published on a publicly accessible website of—

- (a) the new standard rate; and
- (b) the day specified in relation to that rate under sub-paragraph (5)(b).

(7) In this paragraph—

“average mortgage rate” means the effective interest rate (non-seasonally adjusted) of United Kingdom resident banks and building societies for loans to households secured on dwellings published by the Bank of England in respect of the most recent period specified for that rate at the time of publication<sup>(18)</sup>;

<sup>(17)</sup> Paragraph 12 was amended by regulation 2(c) of [S.R. 2004 No. 461](#); regulation 2(3)(c)(ii) of [S.R. 2007 No. 475](#); regulation 2(2)(b) of [S.R. 2008 No. 503](#) and regulation 2(2) of [S.R. 2010 No. 340](#).

<sup>(18)</sup> This is available on the Bank of England website: <http://www.bankofengland.co.uk/statistics/bankstats/current/index.htm>. The effective rate appears in Table G1.4 in the column headed “HSDE”.

“reference day” means any day falling on or after the date on which this Schedule comes into operation.

### **Amount in respect of service charge payments**

13.—(1) This paragraph provides for the calculation of the amount to be included in the owner-occupier’s housing costs element under this Schedule in respect of relevant payments which are service charge payments.

(2) The amount in respect of the service charge payments is to be calculated as follows.

#### *Step 1*

Determine the amount of each service charge payment.

#### *Step 2*

Determine the period in respect of which each service charge payment is payable and, determine the amount of the payment in respect of a month (see sub-paragraphs (3) and (4)).

#### *Step 3*

If there is more than one service charge payment, add together the amounts determined in step 2.

The result is the amount to be included under this Schedule in respect of service charge payments.

(3) Where the period in respect of which an owner-occupier is liable to make a service charge payment is not a month, an amount is to be calculated as the monthly equivalent, so for example—

- (a) weekly payments are multiplied by 52 and divided by 12,
- (b) two-weekly payments are multiplied by 26 and divided by 12,
- (c) four-weekly payments are multiplied by 13 and divided by 12,
- (d) three-monthly payments are multiplied by 4 and divided by 12, and
- (e) annual payments are divided by 12.

(4) Where an owner-occupier is liable for service charge payments under arrangements that provide for one or more service charge free periods, subject to sub-paragraph (5) the monthly equivalent is to be calculated over 12 months by reference to the total number of service charge payments which the owner-occupier is liable to make in that 12 month period.

(5) Where sub paragraph (4) applies and the service charge payments in question are-

- (a) weekly payments, the total number of weekly service charge payments which the owner-occupier is liable to make in any 12 month period shall be calculated by reference to the formula—

$$52 - SCFP;$$

- (b) two-weekly payments, the total number of two-weekly service charge payments which the owner-occupier is liable to make in any 12 month period shall be calculated by reference to the formula-

$$26 - SCFP;$$

- (c) four-weekly payments, the total number of four-weekly service charge payments which the owner-occupier is liable to make in any 12 month period shall be calculated by reference to the formula-

$$13 - SCFP$$

where “SCFP” is the number of service charge free periods in the 12 month period in question.

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(6) “Service charge free period” means any period in respect of which the owner-occupier has no liability to make one or more of the service charge payments which are to be taken into account under paragraph 8.

## SCHEDULE 6

Regulation 40(2) and (3)

Assessment of whether a claimant has limited capability for work

### PART I

#### Physical disabilities

**Table 1**

<i>Activity 1</i>	<i>Descriptors 2</i>	<i>Points</i>
1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid is normally or could reasonably be worn or used.	1(a) Cannot, unaided by another person, either: <ul style="list-style-type: none"> <li>(i) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or</li> <li>(ii) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.</li> </ul>	15
	(b) Cannot, unaided by another person, mount or descend 2 steps even with the support of a handrail.	9
	(c) Cannot, unaided by another person, either— <ul style="list-style-type: none"> <li>(i) mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or</li> <li>(ii) repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion.</li> </ul>	9
	(d) Cannot, unaided by another person, either— <ul style="list-style-type: none"> <li>(i) mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or</li> <li>(ii) repeatedly mobilise 200 metres within a reasonable timescale</li> </ul>	6

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<i>Activity1</i>	<i>Descriptors 2</i>	<i>Points</i>
	because of significant discomfort or exhaustion.	
	(e) None of the above applies.	0
2. Standing and sitting.	2(a) Cannot move between one seated position and another seated position which are located next to one another without receiving physical assistance from another person.	15
	(b) Cannot, for the majority of the time, remain at a work station: <ul style="list-style-type: none"> <li>(i) standing unassisted by another person (even if free to move around),</li> <li>(ii) sitting (even in an adjustable chair); or</li> <li>(iii) a combination of paragraphs (i) and (ii),</li> </ul> for more than 30 minutes, before needing to move away in order to avoid significant discomfort or exhaustion.	9
	(c) Cannot, for the majority of the time, remain at a work station— <ul style="list-style-type: none"> <li>(i) standing unassisted by another person (even if free to move around),</li> <li>(ii) sitting (even in an adjustable chair); or</li> <li>(iii) a combination of paragraphs (i) and (ii),</li> </ul> for more than an hour before needing to move away in order to avoid significant discomfort or exhaustion.	6
	(d) None of the above applies.	0
3. Reaching.	3(a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
	(b) Cannot raise either arm to top of head as if to put on a hat.	9
	(c) Cannot raise either arm above head height as if to reach for something.	6
	(d) None of the above applies.	0
4. Picking up and moving or transferring by the use of the upper body and arms.	4(a) Cannot pick up and move a 0.5 litre carton full of liquid.	15

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<i>Activity1</i>	<i>Descriptors 2</i>	<i>Points</i>
	(b) Cannot pick up and move a one litre carton full of liquid.	9
	(c) Cannot transfer a light but bulky object such as an empty cardboard box.	6
	(d) None of the above applies.	0
5. Manual dexterity.	5(a) Cannot press a button (such as a telephone keypad) with either hand or cannot turn the pages of a book with either hand.	15
	(b) Cannot pick up a £1 coin or equivalent with either hand.	15
	(c) Cannot use a pen or pencil to make a meaningful mark with either hand.	9
	(d) Cannot single-handedly use a suitable keyboard or mouse.	9
	(e) None of the above applies.	0
6. Making self understood through speaking, writing, typing, or other means which are normally or could reasonably be used, unaided by another person.	6(a) Cannot convey a simple message, such as the presence of a hazard.	15
	(b) Has significant difficulty conveying a simple message to strangers.	15
	(c) Has some difficulty conveying a simple message to strangers.	6
	(d) None of the above applies.	0
7. Understanding communication by:	7(a) Cannot understand a simple message, such as the location of a fire escape, due to sensory impairment.	15
(i) verbal means (such as hearing or lip reading) alone,	(b) Has significant difficulty understanding a simple message from a stranger due to sensory impairment.	15
(ii) non-verbal means (such as reading 16 point print or Braille) alone, or	(c) Has some difficulty understanding a simple message from a stranger due to sensory impairment.	6
(iii) a combination of sub-paragraphs (i) and (ii),	(d) None of the above applies	0
using any aid that is normally or could reasonably be used, unaided by another person.		
8. Navigation and maintaining safety using a guide dog or other aid if either or both are normally used or could reasonably be used.	8(a) Unable to navigate around familiar surroundings, without being accompanied by another person, due to sensory impairment.	15
	(b) Cannot safely complete a potentially hazardous task such as crossing the road,	15

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<i>Activity1</i>	<i>Descriptors 2</i>	<i>Points</i>
	without being accompanied by another person, due to sensory impairment.	
	(c) Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment.	9
	(d) None of the above applies.	0
9. Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or bladder, other than enuresis (bed-wetting), despite the wearing or use of any aids or adaptations which are normally or could reasonably be worn or used.	9(a) At least once a month experiences: <ul style="list-style-type: none"> <li>(i) loss of control leading to extensive evacuation to the bowel and/or voiding of the bladder, or</li> <li>(ii) substantial leakage of the contents of a collecting device, sufficient to require cleaning and a change in clothing.</li> </ul>	15
	(b) The majority of the time is at risk of loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and a change in clothing, if not able to reach a toilet quickly.	6
	(c) Neither of the above applies.	0
10. Consciousness during waking moments.	10(a) At least once a week, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	15
	(b) At least once a month, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	6
	(c) Neither of the above applies.	0

## PART 2

### Mental, cognitive and intellectual function assessment

<i>(1)</i> <i>Activity</i>	<i>(2)</i> <i>Descriptors</i>	<i>(3)</i> <i>Points</i>
11. Learning tasks.	11(a) Cannot learn how to complete a simple task, such as setting an alarm clock.	15
	(b) Cannot learn anything beyond a simple task, such as setting an alarm clock.	9

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(1) Activity	(2) Descriptors	(3) Points
	<p>routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.</p> <p>(c) Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that, overall, day to day life is made significantly more difficult.</p> <p>(d) None of the above applies.</p>	<p></p> <p>6</p> <p>0</p>
15. Getting about.	<p>15(a) Cannot get to any place outside the claimant's home with which the claimant is familiar.</p> <p>(b) Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person.</p> <p>(c) Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person.</p> <p>(d) None of the above applies.</p>	<p>15</p> <p>9</p> <p>6</p> <p>0</p>
16. Coping with social engagement due to cognitive impairment or mental disorder.	<p>16(a) Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the claimant.</p> <p>(b) Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experienced by the claimant.</p> <p>(c) Engagement in social contact with someone unfamiliar to the claimant is not possible for the majority of the time due to difficulty relating to others or significant distress experienced by the claimant.</p> <p>(d) None of the above applies.</p>	<p>15</p> <p>9</p> <p>6</p> <p>0</p>
17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.	<p>17(a) Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.</p> <p>(b) Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.</p> <p>(c) Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.</p>	<p>15</p> <p>15</p> <p>9</p>

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(1) Activity	(2) Descriptors	(3) Points
	(d) None of the above applies.	0

## SCHEDULE 7

Regulation 41(2) and (3)

## Assessment of whether a claimant has limited capability for work and work-related activity

Activity	Descriptors
1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid is normally or could reasonably be worn or used.	1 Cannot either: (a) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or (b) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.
2. Transferring from one seated position to another.	2 Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.
3. Reaching.	3 Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
4. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this Schedule).	4 Cannot pick up and move a 0.5 litre carton full of liquid.
5. Manual dexterity.	5 Cannot press a button (such as a telephone keypad) with either hand or cannot turn the pages of a book with either hand.
6. Making self understood through speaking, writing, typing, or other means which are normally, or could reasonably be, used unaided by another person.	6 Cannot convey a simple message, such as the presence of a hazard.
7. Understanding communication by— (i) verbal means (such as hearing or lip reading) alone, (ii) non verbal means (such as reading 16 point print or Braille) alone, or (iii) a combination of sub-paragraphs (i) and (ii), using	7 Cannot understand a simple message, such as the location of a fire escape, due to sensory impairment.

<i>Activity</i>	<i>Descriptors</i>
any aid that is normally or could reasonably, be used unaided by another person.	
8. Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or voiding of the bladder, other than enuresis (bed-wetting), despite the wearing or use of any aids or adaptations which are normally or could reasonably be worn or used.	8 At least once a week experiences— (a) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, or (b) substantial leakage of the contents of a collecting device sufficient to require the individual to clean themselves and change clothing.
9. Learning tasks.	9 Cannot learn how to complete a simple task, such as setting an alarm clock, due to cognitive impairment or mental disorder.
10. Awareness of hazard.	10 Reduced awareness of everyday hazards, due to cognitive impairment or mental disorder, leads to a significant risk of: (a) injury to self or others, or (b) damage to property or possessions, such that the claimant requires supervision for the majority of the time to maintain safety.
11. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions.
12. Coping with change.	12 Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed.
13. Coping with social engagement, due to cognitive impairment or mental disorder.	13 Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the claimant.
14. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.	14 Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.
15. Conveying food or drink to the mouth.	15(a) Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else, (b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping or experiencing breathlessness or severe discomfort, (c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence, or

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<i>Activity</i>	<i>Descriptors</i>
	<p>(d) Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving—</p> <p>(i) physical assistance from someone else, or</p> <p>(ii) regular prompting given by someone else in the claimant's presence.</p>
16. Chewing or swallowing food or drink.	<p>16 (a) Cannot chew or swallow food or drink;</p> <p>(b) Cannot chew or swallow food or drink without repeatedly stopping or experiencing breathlessness or severe discomfort,</p> <p>(c) Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence, or</p> <p>(d) Owing to a severe disorder of mood or behaviour, fails to:</p> <p>(i) chew or swallow food or drink, or</p> <p>(ii) chew or swallow food or drink without regular prompting given by someone else in the claimant's presence.</p>

## SCHEDULE 8

Regulation 40(6)

Circumstances in which a claimant is to be treated as having limited capability for work

### *Receiving certain treatments*

1. The claimant is receiving—

- (a) regular weekly treatment by way of haemodialysis for chronic renal failure,
- (b) treatment by way of plasmapheresis, or
- (c) regular weekly treatment by way of total parenteral nutrition for gross impairment of enteric function,

or recovering from any of those forms of treatment in circumstances in which the Department is satisfied that the claimant should be treated as having limited capability for work.

### *In hospital*

2.—(1) The claimant is—

- (a) undergoing medical or other treatment as a patient in a hospital or similar institution, or
- (b) recovering from such treatment in circumstances in which the Department is satisfied that the claimant should be treated as having limited capability for work.

(2) The circumstances in which a claimant is to be regarded as undergoing treatment falling within sub-paragraph (1)(a) include where the claimant is attending a residential programme of rehabilitation for the treatment of drug or alcohol dependency.

(3) For the purposes of this paragraph, a claimant is to be regarded as undergoing treatment as a patient in a hospital or similar institution only if that claimant has been advised by a health care professional to stay for a period of 24 hours or longer following medical or other treatment.

*Prevented from working by law*

3.—(1) The claimant—

- (a) is excluded or abstains from work pursuant to a request or notice in writing lawfully made or given under a statutory provision, or
- (b) is otherwise prevented from working pursuant to a statutory provision,

by reason of it being known or reasonably suspected that the claimant is infected or contaminated by, or has been in contact with a case of, a relevant infection or contamination.

(2) In sub-paragraph (1) “relevant infection or contamination” means—

- (i) infectious disease within the meaning of section 32 of the Public Health Act (Northern Ireland) 1967<sup>(19)</sup> (interpretation), or
- (ii) contamination within the meaning of section 2A(1A)<sup>(20)</sup> of that Act.

*Risk to self or others*

4.—(1) The claimant is suffering from a specific illness, disease or disablement by reason of which there would be a substantial risk to the physical or mental health of any person were the claimant found not to have limited capability for work.

(2) This paragraph does not apply where the risk could be reduced by a significant amount by—

- (a) reasonable adjustments being made in the claimant’s workplace, or
- (b) the claimant taking medication to manage their condition where such medication has been prescribed for the claimant by a registered medical practitioner treating the claimant.

*Life threatening disease*

5. The claimant is suffering from a life threatening disease in relation to which—

- (a) there is medical evidence that the disease is uncontrollable, or uncontrolled, by a recognised therapeutic procedure, and
- (b) in the case of a disease that is uncontrolled, there is a reasonable cause for it not to be controlled by a recognised therapeutic procedure.

*Disabled and over the age for state pension credit*

6. The claimant has reached the qualifying age for state pension credit and is entitled to disability living allowance or personal independence payment.

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<sup>(19)</sup> 1967 c. 36

<sup>(20)</sup> Section 2A(1A) was inserted by section 1(3) of the Public Health (Amendment) Act (Northern Ireland) 2008 (c.5)

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## SCHEDULE 9

Regulation 41(5)

Circumstances in which a claimant is to be treated as having limited capability for work and work-related activity

### *Terminal illness*

1. The claimant is terminally ill.

### *Pregnancy*

2. The claimant is a pregnant woman and there is a serious risk of damage to her health or to the health of her unborn child if she does not refrain from work and work-related activity.

### *Receiving treatment for cancer*

3. The claimant is—
  - (a) receiving treatment for cancer by way of chemotherapy or radiotherapy;
  - (b) likely to receive such treatment within 6 months after the date of the determination of capability for work and work-related activity; or
  - (c) recovering from such treatment,

and the Department is satisfied that the claimant should be treated as having limited capability for work and work-related activity.

### *Risk to self or others*

4. The claimant is suffering from a specific illness, disease or disablement by reason of which there would be a substantial risk to the physical or mental health of any person were the claimant found not to have limited capability for work and work-related activity.

### *Disabled and over the age for state pension credit*

5. The claimant has reached the qualifying age for state pension credit and is entitled to attendance allowance, the care component of disability living allowance at the highest rate or the daily living component of personal independence payment at the enhanced rate.

## SCHEDULE 10

Regulation 48

Capital to be disregarded

### *Premises or land*

- 1.—(1) Premises or land occupied by a person as their home.
  - (2) For the purposes of this paragraph and paragraphs 2 to 5, only one set of premises or land may be treated as a person's home.
2. Premises or land occupied by a close relative of a person as their home where that close relative has limited capability for work or has reached the qualifying age for state pension credit.

3. Premises or land occupied by a person's former partner as their home where the person and their former partner are not estranged, but living apart by force of circumstances, for example where the person is in residential care.

4.—(1) Premises or land that a person intends to occupy as their home where—

- (a) the person has acquired the premises or land within the past 6 months but not yet taken up occupation,
- (b) the person is taking steps to obtain possession and has commenced those steps within the past 6 months, or
- (c) the person is carrying out essential repairs or alterations required to render the premises or land fit for occupation and these have been commenced within the past 6 months.

(2) A person is to be taken to have commenced steps to obtain possession of premises or land on the date that legal advice is first sought or proceedings are commenced, whichever is earlier.

5. Premises or land that a person has ceased to occupy as their home following an estrangement from their former partner where—

- (a) the person has ceased to occupy the premises or land within the past 6 months, or
- (b) the person's former partner is a lone parent and occupies the premises or land as their home.

6. Premises or land that a person is taking reasonable steps to dispose of where those steps have been commenced within the past 6 months.

#### *Business assets*

7. Assets which are used wholly or mainly for the purposes of a trade, profession or vocation which the person is carrying on.

8. Assets which were used wholly or mainly for a trade, profession or vocation that the person has ceased to carry on within the past 6 months if—

- (a) the person is taking reasonable steps to dispose of those assets, or
- (b) the person ceased to be engaged in carrying on the trade, profession or vocation because of incapacity and can reasonably expect to be re-engaged on recovery.

#### *Rights in pensions schemes etc.*

9. The value of any policy of life insurance.

10.—(1) The value of any right to receive a pension under an occupational or personal pension scheme or any other pension scheme registered under section 153 of the Finance Act 2004 **(21)**.

(2) "Occupational pension scheme" and "personal pension scheme" have the meaning in section 1 of the Pension Schemes (Northern Ireland) Act 1993. **(22)**

11.—(1) The value of a funeral plan contract.

(2) "Funeral plan contract" means a contract under which the person makes payments to a person to secure the provision of a funeral and where the sole purpose of the plan is the provision of a funeral.

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**(21)** 2004 c. 12.

**(22)** 1993 c. 49.

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*Amounts earmarked for special purposes*

12. An amount deposited with a housing association as a condition of the person occupying premises as their home.

13.—(1) An amount received within the past 6 months which is to be used for the purchase of premises that the person intends to occupy as their home where that amount—

- (a) is attributable to the proceeds of the sale of premises formerly occupied by the person as their home,
- (b) has been deposited with a housing association as mentioned in paragraph 12, or
- (c) is a grant made to the person for the sole purpose of the purchase of a home.

14. An amount received under an insurance policy within the past 6 months in connection with the loss or damage to the premises occupied by the person as their home or to their personal possessions.

15. An amount received within the past 6 months that is to be used for making essential repairs or alterations to premises occupied or intended to be occupied as the person's home where that amount has been acquired by the person (whether by grant or loan or otherwise) on condition that it is used for that purpose.

*Other payments*

16. Any payment made within the last 12 months under Part 8 of the Contributions and Benefits Act (the social fund).

17.—(1) A payment made within the past 12 months by or on behalf of an authority—

- (a) under Article 18, 34C, 34D, or 35A of the Children (Northern Ireland) Order 1995<sup>(23)</sup>, or
- (b) under any other enactment in order to meet a person's welfare needs related to old age or disability, other than living expenses.

(2) In sub-paragraph (1) "living expenses" has the meaning in regulation 66(2).

18.—(1) A payment received within the past 12 months by way of arrears of, or compensation for late payment of—

- (a) universal credit,
- (b) a benefit abolished by Article 39 of the Order (abolition of benefits), or
- (c) a social security benefit which is not included as unearned income under regulation 66(1) (a) or (b).

(2) "Social security benefit" means a benefit under any enactment or statutory provision relating to social security in any part of the United Kingdom.

19. A payment to a person by virtue of being a holder of the Victoria Cross or George Cross.

<sup>(23)</sup> S.I. 1995/755 (N.I. 2); Articles 34C and 34D were inserted by section 2 of the Children (Leaving Care) Act (Northern Ireland) 2002(c.11 (N.I.)) and Article 35A was inserted by section 4 of that Act.



## SCHEDULE 11

Regulation 110

### Application of ESA or JSA sanctions to universal credit

#### Moving an ESA sanction to UC

1.—(1) This paragraph applies where—

- (a) a person is, or has ceased to be, entitled to an employment and support allowance;
- (b) there is a reduction relating to the award of the employment and support allowance under section 11J of the Welfare Reform Act (Northern Ireland) 2007<sup>(24)</sup> (sanctions); and
- (c) the person becomes entitled to universal credit.

(2) Any reduction relating to the award of the employment and support allowance is to be applied to the award of universal credit.

(3) The period for which the reduction is to have effect is the number of days which apply to the person under regulations 52 and 53 of the ESA Regulations minus—

- (a) any days which have already resulted in a reduction to the amount of the employment and support allowance; and
- (b) if the award of the employment and support allowance has terminated, any days falling after the date of that termination and before the date on which the award of universal credit starts,

and that period is to be added to the total outstanding reduction period.

(4) The amount of the reduction in the award of universal credit for any assessment period in which the reduction is applied is the amount calculated in accordance with regulation 107 (amount of reduction for each assessment period).

#### Moving a JSA sanction to UC

2.—(1) This paragraph applies where—

- (a) a person is, or has ceased to be, entitled to a jobseeker's allowance;
- (b) there is a reduction relating to the person's award of a jobseeker's allowance under Article 8J or 8K of the Jobseekers (Northern Ireland) Order 1995<sup>(25)</sup>; and
- (c) the person becomes entitled to universal credit.

(2) Any reduction relating to the award of the jobseeker's allowance is to be applied to the award of universal credit.

(3) The period for which the reduction is to have effect is the number of days which apply to the person under regulations 20 to 22 of the Jobseeker's Allowance Regulations (Northern Ireland) 2016<sup>(26)</sup> minus—

- (a) any days which have already resulted in a reduction to the amount of the jobseeker's allowance; and
- (b) if the award of the jobseeker's allowance has terminated any days falling after the date of that termination and before the date on which the award of universal credit starts,

and that period is to be added to the total outstanding reduction period.

<sup>(24)</sup> Section 11J was inserted by Article 63 of the Order.

<sup>(25)</sup> S.I. 1995/2705 (N.I. 15); Articles 8J and 8K were inserted by Article 55(4) of the Order.

<sup>(26)</sup> S.R. 2016 No. 218.

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(4) The amount of the reduction in the award of universal credit for any assessment period in which the reduction is applied is the amount calculated in accordance with regulation 107 (amount of reduction for each assessment period).

**Effect of ESA or JSA sanction on escalation of UC sanction**

3. Where—

- (a) a reduction in relation to an award of an employment and support allowance or an award of a jobseeker's allowance is applied to an award of universal credit by virtue of paragraph 1 or 2;
- (b) there is a subsequent sanctionable failure under Article 31 or 32 of the Order; and
- (c) the failure giving rise to the reduction in relation to the award of an employment and support allowance or a jobseeker's allowance ("the previous failure") and the reduction period determined for that failure correspond with a failure specified under Article 31 or 32 of the Order to which the same reduction period would apply under Chapter 2 of Part 8 of these Regulations,

for the purposes of determining the reduction period for that subsequent failure, the previous failure is to be treated as if it were the corresponding failure under Article 31 or 32 of the Order