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SCOTTISH STATUTORY INSTRUMENTS

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2012 No. 303

COUNCIL TAX

The Council Tax Reduction (Scotland) Regulations 2012

*Made* - - - - - *7th November 2012*

*Laid before the Scottish*

*Parliament* - - - - - *9th November 2012*

*Coming into force* - - - *28th January 2013*

The Scottish Ministers make the following Regulations in exercise of the powers in sections 80 and 113(1) and (2) of, and paragraph 1 of Schedule 2 to, the Local Government Finance Act 1992(**1**) and all other powers enabling them to do so.

PART 1

General

**Citation and commencement**

1. These Regulations may be cited as the Council Tax Reduction (Scotland) Regulations 2012 and come into force on 28th January 2013.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1973 Act” means the Employment and Training Act 1973(**2**);

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992(**3**);

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that Society;

“academic year” means the period of 12 months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course

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(1) [1992 c.14](#). Section 80 was amended by paragraph 176 of Schedule 13 to the Local Government etc. (Scotland) Act [1994 \(c.39\)](#). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c.46\)](#).

(2) [1973 c.50](#).

(3) [1992 c.4](#).

during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer;

“the Act” means the Local Government Finance Act 1992;

“additional statutory paternity pay” means statutory paternity pay under section 171ZEA(a) or 171ZEB of the 1992 Act(4);

“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996(5);

“alternative maximum council tax reduction” means the amount calculated in accordance with regulation 78 (alternative maximum council tax reduction) and Schedule 2;

“applicable amount” means the amount calculated in accordance with Part 5 and Schedule 1;

“applicant” means a person applying for council tax reduction or, as the case may be, a person who is entitled to council tax reduction whose entitlement is or may be subject to re-assessment by the relevant authority;

“application” means an application for council tax reduction;

“appropriate maximum council tax reduction” means the maximum council tax reduction applicable to a person calculated in accordance with regulation 66;

“assessment period” means a period described in regulations 29 (average weekly earnings of employed earners), 30 (average weekly earnings of self-employed earners) and 31 (average weekly income other than earnings) over which income falls to be calculated;

“attendance allowance” means—

- (a) an attendance allowance under Part 3(6) of the 1992 Act;
- (b) an increase of disablement pension under section 104 or 105 of the 1992 Act;
- (c) a payment under regulations made in exercise of the power conferred by paragraph 7(2) (b) of Part 2 of Schedule 8 to the 1992 Act;
- (d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the 1992 Act;
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(7) or any analogous payment; or
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“basic rate” has the meaning given by section 989 of Income Tax Act 2007(8);

“the benefit Acts” means the 1992 Act, the Jobseekers Act and the Welfare Reform Act;

“the Board of the Pension Protection Fund” means the body corporate established under section 107 of the Pensions Act 2004(9);

“care home” in Scotland means a care home service within the meaning given by paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010(10) and in England and Wales has the meaning given by section 3 of the Care Standards Act 2000(11);

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(4) Section 171ZEA was added by section 6 of the Work and Families Act 2006 (c.18) and section 171ZEB was added by section 7 of that Act.

(5) 1996 c.18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c.22) and amended by paragraphs 33 and 34, respectively, of Schedule 1 to the Work and Families Act 2006 (c.18).

(6) Part 3 was relevantly amended by section 66 of the Welfare Reform and Pensions Act 1999 (c.30), section 60 of the Welfare Reform Act 2007 (c.5) and S.I. 2011/2426.

(7) S.I. 1983/686 as relevantly amended by S.I. 1984/1675 and 2001/420.

(8) 2007 c.3. Section 989 was relevantly amended by section 26 of the Scotland Act 2012 (c.11).

(9) 2004 c.35.

(10) 2010 asp 8.

(11) 2000 c.14. Section 3 was amended by paragraph 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).

“carer’s allowance” means an allowance under section 70(12) of the 1992 Act;

“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;

“child” means a person under the age of 16;

“child benefit” means child benefit under section 141 of the 1992 Act(13);

“child care costs element” means an amount in respect of child care costs included in an award of universal credit by virtue of section 10 of the Welfare Reform Act 2012(14) and any regulations made under that section;

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002(15);

“civil partnership” means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004(16), and “civil partner” is to be construed accordingly;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister or, if any of the preceding persons is one member of a couple, the other member of that couple;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002 are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act(17);

“converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations;

“council tax benefit” means council tax benefit under the Council Tax Benefit Regulations 2006(18);

“council tax reduction” means a reduction in liability for council tax calculated in accordance with these Regulations;

“couple” means—

- (a) a man and a woman who are married to each other and are members of the same household, but not if the marriage is a polygamous marriage;
- (b) a man and a woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of sub-paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife were they two people of the opposite sex;

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(12) Section 70 was amended by [S.I. 1994/2556](#), [2002/1457](#) and [2011/2426](#).

(13) Section 141 was amended by section 1 of the Child Benefit Act [2005 \(c.6\)](#).

(14) [2012 c.5](#).

(15) [2002 c.21](#).

(16) [2004 c.33](#).

(17) Part 1 was relevantly amended by section 52 of the Welfare Reform Act [2012 \(c.5\)](#).

(18) [S.I. 2006/215](#).

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“date of application” means the date on which the application is made, or treated as made, for the purposes of regulation 5(9) (occupation of a dwelling as a home) and regulation 85 (date on which an application is made);

“designated office” means the office designated by the relevant authority as the office to which applications should be sent;

“disability living allowance” means a disability living allowance under section 71 of the 1992 Act(19);

“discount” means discount under section 79 of the Act (discount of the amount of council tax payable);

“earnings” has the meaning given by regulation 34 (earnings of employed earners) or, as the case may be, regulation 36 (earnings of self-employed earners);

“educational establishment” has the meaning given by section 135(1) of the Education (Scotland) Act 1980(20);

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

“employed earner” is to be construed in accordance with section 2(1)(a) of the 1992 Act(21) and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

“employment and support allowance” means employment and support allowance under Part 1 of the Welfare Reform Act(22);

“Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008(23);

“Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010(24);

“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A of the Jobseekers Act 1995(25) (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist applicants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(26) and an “employment zone programme” means a programme established for such an area or areas designed to assist applicants for a jobseeker’s allowance to obtain sustainable employment;

(19) Section 71 was amended by section 67 of the Welfare Reform and Pensions Act 1999 (c.30).

(20) 1980 c.44. Section 135 was relevantly amended by section 82(2) of, and Schedule 11 to, the Self-Governing Schools etc. (Scotland) Act 1989 (c.3) and paragraph 7(7) of Schedule 9, and Schedule 10, to the Further and Higher Education (Scotland) Act 1992 (c.37).

(21) Section 2(1)(a) was amended by paragraph 171 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1).

(22) Part 1 was relevantly amended by sections 50, 52 and 53 of the Welfare Reform Act 2012.

(23) S.I. 2008/794.

(24) S.I. 2010/1907.

(25) 1995 c.18. Section 17A was inserted by section 1(2) of the Welfare Reform Act 2009 (c.24) and amended by Part 3 of Schedule 14 to the Welfare Reform Act 2012.

(26) 1999 c.30.

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State;

“enactment” includes an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;

“extended council tax reduction” means an extension of a period of entitlement to council tax reduction under regulation 68 (extended council tax reduction);

“extended council tax reduction (qualifying contributory benefits)” means an extension of a period of entitlement to council tax reduction under regulation 73 (extended council tax reduction (qualifying contributory benefits));

“family” means—

- (a) a couple;
- (b) a couple and a member of the same household for whom one of them is, or both are, responsible and who is a child or young person; or
- (c) subject to regulation 25 (circumstances in which the income and capital of a non-dependant is to be treated as the applicant’s), a person who is not a member of a couple and a member of the same household for whom the person is responsible and who is a child or young person.

“first authority” means the relevant authority to which a mover was liable to pay council tax for the dwelling that person resided in immediately before moving to the dwelling in the area of the second authority;

“full-time course of study” means a full-time course of study which—

- (a) is not funded in whole or in part by the Scottish Ministers at a college of further education or by the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers;
- (b) is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college; or
- (d) is funded in whole or in part by the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
  - (i) in the case of a course funded by the Young People’s Learning Agency for England or the Chief Executive of Skills Funding, in the student’s learning agreement signed on behalf of the establishment which is funded by either of those bodies for the delivery of that course; or
  - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by the Welsh Ministers for the delivery of that course;

“full-time student” means a person attending or undertaking a full-time course of study(27);  
 “the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by the Secretary of State on 10th or 24th April 1992, as the case may be;  
 “guaranteed income payment” means a payment made under article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(28);  
 “higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992(29);  
 “housing benefit” means housing benefit under section 130 of the 1992 Act(30);  
 “the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(31);  
 “housing costs element” means an amount in respect of housing costs included in an award of universal credit by virtue of section 11 of the Welfare Reform Act 2012 and any regulations made under that section;  
 “Immigration and Asylum Act” means the Immigration and Asylum Act 1999(32);  
 “incapacity benefit” means incapacity benefit under section 30A, 40 or 41 of the 1992 Act(33);  
 “an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the same meaning as they have in the Jobseekers Act by virtue of section 1(4) of that Act(34);  
 “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act(35);  
 “income support” means income support under section 124 of the 1992 Act;  
 “Income Support Regulations” means the Income Support (General) Regulations 1987(36);  
 “independent hospital”—  
 (a) in Scotland, means an independent health care service as defined in section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978(37);  
 (b) in England, means a hospital as defined by section 275 of the National Health Service Act 2006(38) that is not a health service hospital as defined by that section; and  
 (c) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000(39);  
 “the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the

(27) See paragraph (2) to (4).

(28) S.I. 2011/517.

(29) 1992 c.37. Section 38 was relevantly amended by paragraph 9 of Schedule 5 to the Education (Scotland) Act 1996 (c.48).

(30) Section 130 was relevantly amended by paragraph 3 of Schedule 9 to the Local Government Finance Act 1992 (c.14), Part 6 of Schedule 19 to the Housing Act 1996 (c.52) and paragraph 1(3) of Schedule 5, and Schedule 8, to the Welfare Reform Act 2007 (c.5).

(31) S.I. 2006/213.

(32) 1999 c.33.

(33) Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c.18) (“the 1994 Act”) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c.30) and paragraph 14 of Schedule 24 to the Civil Partnership Act 2004 (c.33). Section 40 was substituted by paragraph 8 of Schedule 1 to the 1994 Act. Section 41 was substituted by paragraph 9 of Schedule 1 to the 1994 Act and amended by paragraph 21 of Schedule 4 to the Pensions Act 1995 (c.26).

(34) Section 1(4) was relevantly amended by paragraph 2 of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c.30). Paragraph (5) of this regulation makes further provision in relation to these allowances.

(35) Paragraph (6) of this regulation makes further provision in relation to this allowance.

(36) S.I. 1987/1967.

(37) 1978 c.29. Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

(38) 2006 c.41.

(39) 2000 c.14. Section 2 was relevantly amended by section 106 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43), paragraph 199 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43), paragraph 3 of Schedule 5 to the Health and Social Care Act 2008 (c.14) and S.I. 2002/325.

one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;

“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“Jobseekers Act” means the Jobseekers Act 1995(40);

“Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(41);

“limited capability for work” has the meaning given in section 1(4) of the Welfare Reform Act;

“limited capability for work-related activity” has the meaning given in section 2(5) of the Welfare Reform Act;

“local authority” in Scotland means a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994(42);

“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of 4 consecutive weeks with a view to assisting applicants to improve their prospects of obtaining employment;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996(43);

“medically approved” means certified by a medical practitioner;

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;

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(40) 1995 c.18.

(41) S.I. 1996/207.

(42) 1994 c.39. Section 2 was amended by paragraph 232(1) of Schedule 22 to the Environment Act 1995 (c.25).

(43) 1996 c.18. Part 8 was substituted by Part 1 of Schedule 4 to the Employment Relations Act 1999 (c.26).

“mobility supplement” means a supplement to which paragraph 12 of Schedule 4 refers;

“mover” means a person who moves from a dwelling in which the person is resident, and in respect of which the person is liable to pay council tax to the first authority, to reside in a dwelling in the area of the second authority and any reference to a mover is to be construed as including a reference to the mover’s partner;

“net earnings” means earnings calculated in accordance with regulation 35 (calculation of net earnings of employed earners);

“new dwelling” means, for the purposes of the definition of “second authority” and regulations 71 (extended council tax reduction: movers) and 76 (extended council tax reduction (qualifying contributory benefits): movers) the dwelling to which an applicant has moved, or is about to move, in which the applicant is or will be resident;

“non-dependant” has the meaning given by regulation 3 (non-dependants);

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

“ordinary statutory paternity pay” means statutory paternity pay under section 171ZA or 171ZB of the 1992 Act(44);

“partner” means—

- (a) where a person is a member of a couple, the other member of that couple; or
- (b) where a person is polygamously married to two or more members of the person’s household, any such member to whom the person is married;

“paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996(45) or on additional paternity leave by virtue of section 80AA or 80BB of that Act;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“payment” includes part of a payment;

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012(46);

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993(47);
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988(48) or a substituted contract within the meaning of section 622(3) of that Act(49) which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004(50); or

(44) Sections 171ZA and 171ZB were inserted by section 2 of the Employment Act 2002 (c.22) and moved under a new heading by paragraph 11 of Schedule 1 to the Work and Families Act 2006 (c.18).

(45) Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c.22) and amended, respectively, by paragraphs 35 and 36 of Schedule 1 to the Work and Families Act 2006 (c.18).

(46) 2012 c.5.

(47) 1993 c.48. Section 1 was amended by section 239 of the Pensions Act 2004 (c.35), paragraph 1 of Schedule 27 to the Finance Act 2007 (c.11) and S.I. 2007/3014.

(48) 1988 c.1. Sections 620 and 621 were repealed by Part 3 of Schedule 42 to the Finance Act 2004 (c.12).

(49) Section 622 was repealed by Part 3 of Schedule 42 to the Finance Act 2004 (c.12).

(50) 2004 c.12.

- (c) a personal pension scheme approved under chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988([51](#)) which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy, and cognate expressions are to be construed accordingly;

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002([52](#)))—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“qualifying contributory benefit” means—

- (a) severe disablement allowance under section 68 of the 1992 Act([53](#));
- (b) incapacity benefit; or
- (c) contributory employment and support allowance;

“qualifying course” has the same meaning as it has in regulation 17A of the Jobseeker’s Allowance Regulations([54](#));

“qualifying income-related benefit” means—

- (a) income support;
- (b) income-based jobseeker’s allowance; or
- (c) income-related employment and support allowance;

“qualifying person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

“reduction week” means a period of 7 consecutive days commencing on a Monday and ending on a Sunday;

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

“relevant authority” means a local authority administering council tax reduction;

“relevant child care charges” has the meaning given by regulation 28(5) (treatment of child care charges);

“remunerative work” has the meaning given by regulation 6 (remunerative work);

“rent” means “eligible rent” to which regulation 12B of the Housing Benefit Regulations([55](#)) refers less any deductions in respect of non-dependants to be made under regulation 74 (non-dependant deductions) of those Regulations;

“residential accommodation” means accommodation which is provided in—

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield home; or

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([51](#)) Chapter 4 was repealed by Part 3 of Schedule 42 to the Finance Act 2004 ([c.12](#)).

([52](#)) [2002 c.16](#).

([53](#)) Section 68 was repealed by Part 4 of Schedule 13 to the Welfare Reform and Pensions Act 1999 ([c.30](#)) but continues to have effect by virtue of [S.I. 2000/2958](#).

([54](#)) Regulation 17A was inserted by [S.I. 1998/1274](#).

([55](#)) Regulation 12B was inserted by [S.I. 2007/2868](#).

- (d) an establishment managed or provided by a body incorporated by Royal charter or constituted by Act of Parliament or by Act of the Scottish Parliament other than a local social services authority;

“sandwich course” has the meaning prescribed in regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(**56**), regulation 2(10) of the Education (Student Support) Regulations 2011(**57**) or regulation 2(10) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009(**58**), as the case may be;

“second adult” has the meaning given to it in Schedule 2 (amount of alternative maximum council tax reduction);

“second authority” means the local authority to which a mover is liable to pay council tax for the new dwelling;

“self-employed earner” has the meaning given by section 2(1)(b) of the 1992 Act (categories of earners);

“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

- (a) an employment zone programme;
- (b) a programme provided or other arrangements made pursuant to section 2 of the Enterprise and New Towns (Scotland) Act 1990(**59**) (functions in relation to training for employment, etc.) or section 2 of the 1973 Act(**60**) (functions of the Secretary of State); or

- (c) the Employment, Skills and Enterprise Scheme;

“service user group” means a group of individuals consulted by or on behalf of—

- (a) a Health Board, Special Health Board or the Common Services Agency for the Scottish Health Service in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978(**61**);
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985(**62**);
- (c) a public authority in consequence of a function under section 149 of the Equality Act 2010(**63**) or section 49A of the Disability Discrimination Act 1995(**64**);
- (d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999(**65**);
- (e) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001(**66**);

(**56**) S.I. 2007/154.

(**57**) S.I. 2011/1986.

(**58**) S.I. 2009/373 as relevantly amended by S.I. 2010/383.

(**59**) 1990 c.35. Section 2 was relevantly amended by section 47 of, and paragraph 1 of Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 (c.19).

(**60**) Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and amended by Part 1 of Schedule 7 to the Employment Act 1989 (c.38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c.19).

(**61**) 1978 c.29. Section 2B was inserted by section 7 of the National Health Service Reform (Scotland) Act 2004 (asp 7).

(**62**) 1985 c.68. Section 105 was amended by paragraph 5 of Schedule 8 to the Local Government (Wales) Act 1994 (c.19), paragraph 5 of Schedule 16 to the Government of Wales Act 1998 (c.38), paragraph 2(2) of Schedule 1 to the Anti-Social Behaviour Act 2003 (c.38) and S.I. 1996/2325 and 2010/866.

(**63**) 2010 c.15.

(**64**) 1995 c.50. Section 49A was inserted by section 3 of the Disability Discrimination Act 2005 (c.13) and S.I. 2006/312 (N.I. 1) and amended by S.I. 2010/2279. Section 49A was repealed for England and Wales and Scotland by Schedule 27 to the Equality Act 2010 (c.15) but continues to have effect in Northern Ireland.

(**65**) 1999 c.27. Section 3 was amended by section 137 of the Local Government and Public Involvement in Health Act 2007 (c.28).

(**66**) 2001 asp 10.

- (f) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006(67);
- (g) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006(68);
- (h) the Commission in consequence of a function under sections 4 or 5 of the Health and Social Care Act 2008(69);
- (i) the regulator or a private registered provider of social housing in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008(70); or
- (j) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions; “special account” means an account as defined for the purposes of chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations or chapter 5 of Part 10 of the Employment and Support Allowance Regulations;

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc Act 1993(71) out of sums allocated to it for distribution under that section;

“statutory adoption pay” means statutory adoption pay under section 171ZL of the 1992 Act(72);

“statutory maternity pay” means statutory maternity pay under section 164 of the 1992 Act(73);

“statutory paternity pay” means statutory paternity pay payable under Part 12ZA of the 1992 Act(74);

“statutory sick pay” means statutory sick pay under section 151 of the 1992 Act(75);

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

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(67) 2006 c.41. Section 242 was amended by section 233 of the Local Government and Public Involvement in Health Act 2007 (c.28) and section 18(7) of the Health Act 2009 (c.21).

(68) 2006 c.42.

(69) 2008 c.14. Section 4 was amended by section 189 of the Health and Social Care Act 2012 (c.7).

(70) 2008 c.17. Section 193 was amended by section 176(1) of, and paragraph 4 of Schedule 17 and Part 27 of Schedule 25 to, the Localism Act 2011 (c.20). Section 196 was amended by section 26 of the Local Democracy, Economic Development and Construction Act 2009 (c.20) and paragraph 55 of Schedule 19 and Part 26 of Schedule 25 to the Localism Act 2011 (c.20).

(71) 1993 c.39. Section 23(2) was amended by S.I. 1996/3095, 1999/1563 and 2006/654.

(72) Section 171ZL was inserted by section 4 of the Employment Act 2002 (c.22) and amended by S.I. 2006/2012 and 2011/1740.

(73) Section 164 was amended by paragraph 12 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 20 of, and paragraph 6 of Schedule 7 and Part 1 of Schedule 8 to, the Employment Act 2002 (c.22).

(74) Part 12ZA was inserted by section 2 of the Employment Act 2002 and amended by paragraph 183 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1), sections 6 to 10 of, and paragraphs 10 to 20 of Schedule 1 to, the Work and Families Act 2006 (c.18), paragraph 149 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43), section 63 of the Welfare Reform Act 2012 (c.5), paragraph 61 of Schedule 14 to the Health and Social Care Act 2012 (c.7) and S.I. 2006/1031.

(75) Section 151 was amended by paragraph 34 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c.18) and paragraph 9 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

“student loan” means a loan towards a student’s maintenance pursuant to section 73 of the Education (Scotland) Act 1980(76), any regulations made under section 22 of the Teaching and Higher Education Act 1998(77) or article 3 of the Education (Student Support) (Northern Ireland) Order 1998(78) and includes a young student’s bursary paid under regulation 4(1)(c) of the Students’ Allowances (Scotland) Regulations 2007(79);

“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Secretary of State, the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or the Welsh Ministers;
- (b) to a person for that person’s maintenance or in respect of a member of the person’s family; and
- (c) for the period, or part of the period, during which the person is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to the person or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that that person is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act(80), or is training as a teacher;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State;

“the Trusts” means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(81);

“war widow’s pension” means any pension or allowance payable to a woman as a widow or surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

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(76) 1980 c.44. Section 73 was amended by section 73 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

(77) 1998 c.30. Section 22 was amended by section 146(2) of, and Schedule 11 to, the Learning and Skills Act 2000 (c.21), paragraph 236 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1), section 147 of the Finance Act 2003 (c.14), sections 42 and 43 of, and Schedule 7 to, the Higher Education Act 2004 (c.8), section 257 of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) and section 76 of the Education Act 2011 (c.21).

(78) S.I. 1998/1760 (N.I. 14), to which there are amendments not relevant to these Regulations.

(79) S.S.I. 2007/153.

(80) Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and amended by section 29 of, and Schedule 7 to, the Employment Act 1989 (c.38) and section 47 of the Trade Union Reform and Employment Rights Act 1993 (c.19).

(81) 2003 c.1. Section 639(2) was inserted by section 19 of the Finance Act 2005 (c.7).

“war widower’s pension” means any pension or allowance payable to a man as a widower or surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“water charges” means—

- (a) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002([82](#)), in so far as such charges are in respect of the dwelling which a person occupies as a home; and
- (b) as respects England and Wales, any water and sewerage charges under chapter 1 of Part 5 of the Water Industry Act 1991([83](#));

“Welfare Reform Act” means the Welfare Reform Act 2007([84](#));

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002([85](#));

“Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002([86](#)); and

“young person” has the meaning given by regulation 4 (young persons).

(2) For the purposes of the definition of “full-time student” in paragraph (1), a person is to be regarded as attending or, as the case may be, undertaking a full-time course of study—

- (a) subject to paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
  - (i) on the last day on which that person is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
  - (ii) on such earlier date (if any) as the person finally abandons the course or is dismissed from it; and
- (b) in any other case, throughout the period beginning on the date on which that person starts attending or undertaking the course and ending on the last day of the course or on such earlier date, if any, as the person finally abandons the course or is dismissed from it.

(3) The period referred to in paragraph (2)(a) includes—

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when the person was attending or undertaking a part of the course as a full-time course of study, any period in respect of which the person attends or undertakes the course for the purpose of retaking those examinations or that module; and
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which the person is required to attend or undertake the course.

(4) In paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

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(82) [2002 asp 3](#). Section 29A was substituted by section 21 of the Water Services etc. (Scotland) Act 2005 ([asp 3](#)).

(83) [1991 c.56](#).

(84) [2007 c.5](#).

(85) [2002 c.21](#).

(86) [S.I. 2002/2005](#).

(5) For the purposes of these Regulations, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to that person and on any day—

- (a) in respect of which the person satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid as a consequence of section 19 or 19A or regulations made under section 17A of the Jobseekers Act<sup>(87)</sup> (circumstances in which a jobseeker's allowance is not payable);
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to the person or would be payable to the person but for section 19 or 19A or regulations made under section 17A of that Act;
- (c) in respect of which the person is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of the couple being subject to sanctions for the purposes of section 19 or 19A of that Act; or
- (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001<sup>(88)</sup> (loss of benefit provisions).

(6) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to the person and on any day—

- (a) in respect of which the person satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid as a consequence of section 18 of the Welfare Reform Act (disqualification); or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to the person or would be payable to the person but for section 18 of that Act.

(7) In these Regulations, where an amount is to be rounded to the nearest penny, a fraction of a penny is to be disregarded if it is less than half a penny and is if it is a half penny or more to be treated as a whole penny.

(8) For the purposes of these Regulations, two persons are to be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(9) In these Regulations, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002<sup>(89)</sup> (small amounts of state pension credit).

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<sup>(87)</sup> Sections 19 and 19A were substituted by section 46 of the Welfare Reform Act 2012 (c.5). Section 17A was inserted by section 1 of the Welfare Reform Act 1999 (c.24).

<sup>(88)</sup> 2001 c.11. Section 6B was inserted by section 24 of the Welfare Reform Act 2009 (c.24) and amended by section 113 of the Welfare Reform Act 2012 (c.5). Section 7 was amended by paragraph 45(2) of Schedule 2 to the State Pension Credit Act 2002 (c.16), section 49(1) of, and paragraph 23(2) of Schedule 3 to, the Welfare Reform Act 2007 (c.5), paragraph 2 of Schedule 4, and Schedule 7, to the Welfare Reform Act 2009 (c.24) and S.S.I. 2011/2298. Section 8 was amended by paragraph 3 of Schedule 4, and Schedule 7, to the Welfare Reform Act 2009 (c.24) and section 113 of the Welfare Reform Act 2012. Section 9 was amended by paragraph 46 of Schedule 2 to the State Pension Credit Act 2002 (c.16), paragraph 23 of Schedule 3 to the Welfare Reform Act 2007 (c.5), paragraph 4 of Schedule 4 to the Welfare Reform Act 2009 (c.24) and section 113 of the Welfare Reform Act 2012.

<sup>(89)</sup> S.I. 2002/1792.

## Non-dependants

3.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.

- (2) This paragraph applies to—
- (a) any member of the applicant’s family;
  - (b) if the applicant is polygamously married, any partner of the applicant and any child or young person who is a member of the applicant’s household and for whom the applicant or one of the applicant’s partners is responsible;
  - (c) a child or young person who is living with the applicant but who is not a member of the applicant’s household by virtue of regulation 11 (membership of a household);
  - (d) subject to paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 75 of the Act<sup>(90)</sup> (persons liable to pay council tax);
  - (e) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or any partner of the applicant in respect of the occupation of the dwelling; or
  - (f) any person who lives with the applicant in order to care for the applicant or any partner of the applicant, or both of them, and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or the applicant’s partner or both of them, for the services provided by that person.
- (3) Excepting persons to whom paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following sub-paragraphs applies is a non-dependant for the purpose of these Regulations—
- (a) a person who resides with another person to whom the first mentioned person is liable to make payments in respect of the dwelling and either—
    - (i) that another person is a close relative of the first mentioned person or of the first mentioned person’s partner; or
    - (ii) the tenancy or other agreement between them is other than on a commercial basis;
  - (b) a person whose liability to make payments in respect of the dwelling appears to the relevant authority to have been created to take advantage of the council tax reduction scheme, except someone who was, for any period within the 8 weeks prior to the creation of the agreement giving rise to the liability to make the payments, otherwise liable to make payments of rent in respect of the same dwelling; or
  - (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of 8 weeks prior to becoming liable, a non-dependant of one or more of the other residents in that dwelling who are liable for the council tax, unless the relevant authority is satisfied that the change giving rise to the new liability was not made to take advantage of the council tax reduction scheme.

## Young persons

4.—(1) In these Regulations “young person” means a person who falls within the definition of “qualifying young person” in section 142 of the 1992 Act<sup>(91)</sup> (child and qualifying young person).

(90) Section 75 was amended by section 4 of the [Education \(Graduate Endowment and Student Support\) \(Scotland\) Act 2001 \(asp 6\)](#) and paragraph 19 of schedule 10 to the [Housing \(Scotland\) Act 2001 \(asp 10\)](#).

(91) Section 142 was substituted by section 1(2) of the Child Benefit Act 2005 (c.6).

(2) Paragraph (1) does not apply to a person who—

- (a) is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit; or
- (b) is a person to whom section 6 of the Children (Leaving Care) Act 2000(92) (exclusion from benefits) applies.

(3) A young person includes a child or young person in respect of whom section 145A of the 1992 Act(93) applies for the purposes of entitlement to child benefit but only for the period prescribed under subsection (1) of that section.

### **Occupation of a dwelling as a home**

5.—(1) Subject to the following provisions of this regulation, a person is to be treated as occupying as a home the dwelling normally occupied as a home—

- (a) by that person or, if the person is a member of a family, by the person and that family; or
- (b) if the person is polygamously married, by the person, the person's partners and any child or young person for whom the person or any of the partners is responsible and who is a member of that same household,

and is not to be treated as occupying any other dwelling as a home.

(2) In determining whether a dwelling is the dwelling normally occupied as a person's home for the purpose of paragraph (1) regard must be had to any other dwelling occupied by the person or any other person referred to in that paragraph whether or not that dwelling is in Scotland.

(3) Where a lone parent or a person who does not have a partner and is not a lone parent is a student, other than a full-time student to whom regulation 20 applies (persons not entitled to council tax reduction: students), or is on a training course, and is liable to make payments in respect of either—

- (a) the dwelling which that person occupies for the purpose of attending a course of study or a training course; or
- (b) the dwelling which the person occupies when not attending the course,

the person is to be treated as occupying as a home the dwelling in respect of which the person is liable to make those payments.

(4) Where a person has required to move into temporary accommodation because of the carrying out of essential repairs to the dwelling normally occupied as that person's home, and the person is liable to make payments in respect of either the dwelling which the person normally occupies as a home or the temporary accommodation, the person is to be treated as occupying as a home the dwelling in respect of which the person is liable to make payments.

(5) Where a person is required to reside in a dwelling which is a bail hostel or probation hostel approved by the Secretary of State under section 13 of the Offender Management Act 2007(94), that person is not to be treated as occupying that dwelling as a home.

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, that person is to be treated as occupying both dwellings as a home—

- (a) for a period not exceeding 52 weeks, where the person left and remains absent from the former dwelling occupied as a home and for which the person is liable to make payments through fear of violence in that dwelling or by a former member of the person's family and—

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(92) 2000 c.35.

(93) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c.21) and amended by paragraph 48 of Schedule 24 to the Civil Partnership Act 2004 (c.33) and paragraph 12 of Schedule 1 to the Child Benefit Act 2005 (c.6).

(94) 2007 c.21.

- (i) the relevant authority is satisfied that it is reasonable that the person should be entitled to council tax reduction in respect of the former dwelling and the present dwelling occupied as a home; and
  - (ii) the person intends to return to occupy the former dwelling as a home;
- (b) in the case of a person who is a member of a couple or a member of a polygamous marriage, where the person or one partner is a student, other than a full-time student to whom regulation 20(1) (persons not entitled to council tax reduction: students) applies, or is on a training course, and—
  - (i) it is unavoidable that the partners should occupy two separate dwellings; and
  - (ii) the local authority is satisfied that it is reasonable that the person should be entitled to council tax reduction in respect of both dwellings;
- (c) where, because of the number of persons in a family referred to in paragraph (1)(a) or (b), those persons have been housed by a housing authority in two separate dwellings;
- (d) where a person has moved into a new dwelling occupied as a home, except where paragraph (4) applies, for a period not exceeding 4 reduction weeks from the date on which that person moved if the person could not reasonably have avoided liability in respect of two dwellings; or
- (e) where a person—
  - (i) is treated by virtue of paragraph (8) as occupying a dwelling as that person's home and paragraph 8(c)(i) applies; and
  - (ii) the person has occupied another dwelling as a home on any day within the period of 4 weeks immediately preceding the date the person moved to the new dwelling, for a period not exceeding 4 reduction weeks immediately preceding the date on which the person moved.

(7) Where—

- (a) a person has moved into a dwelling for which that person is not liable to make payments (“the new dwelling”);
- (b) immediately before that move, the person was liable to make payments for the dwelling previously occupied as a home (“the former dwelling”); and
- (c) that liability continues after the person has moved into the new dwelling,

the person is to be treated as occupying the former dwelling as a home for a period not exceeding 4 reduction weeks if the person could not reasonably have avoided liability in respect of the former dwelling.

(8) Where—

- (a) a person moved into a dwelling and was liable to make payments in respect of that dwelling before moving in; and
- (b) either—
  - (i) that person applied for council tax reduction before moving in and no decision has been made or it was refused but a further application was made or treated as made within 4 weeks of the date on which the person moved into the new dwelling to occupy it as a home; or
  - (ii) the person notified the move to the new dwelling as a change of circumstances under regulation 89 (duty to notify changes of circumstances) before the move; and
- (c) the delay in moving into the dwelling was reasonable and—

- (i) that delay was necessary in order to adapt the dwelling to meet the disability needs of the person or any member of the person's family;
- (ii) the move was delayed pending the outcome of an application—
  - (aa) under Part 8 of the 1992 Act<sup>(95)</sup> for a social fund payment;
  - (bb) to a local authority for a payment made in exercise of the power in section 20 of the Local Government in Scotland Act 2003<sup>(96)</sup> (power to advance well-being) using funds provided by the Scottish Ministers from the Scottish Welfare Fund;
  - (cc) to a local authority in exercise of the power in section 1 of the Localism Act 2011<sup>(97)</sup> (local authority's general power of competence) using funds provided by the Secretary of State, and in this sub-head local authority means a local authority within the meaning of section 8 of that Act; or
  - (dd) to the Welsh Ministers, or to a person acting on their behalf, for a payment made in exercise of the power in section 60 of the Government of Wales Act 2006<sup>(98)</sup> (promotion etc. of well-being),
- to meet a need arising out of the move or in connection with setting up the home in the dwelling and either a member of the applicant's family is aged 5 or under or the applicant's applicable amount includes a premium under paragraph 9 (disability premium), paragraph 11 (severe disability premium) or 13 (disabled child premium) of Schedule 1 (applicable amounts) or a component under paragraph 21 (work-related activity component) or 22 (support component) of that Schedule; or
- (iii) the applicant became liable to make payments in respect of the dwelling while a patient or in residential accommodation,

the person is to be treated as occupying the dwelling as a home for any period not exceeding 4 weeks immediately prior to the date on which the person moved into the dwelling.

(9) Where a person is treated by virtue of paragraph (8) as occupying a dwelling as a home in respect of the period before moving in, the person's application for council tax reduction in respect of that dwelling is to be treated as having been made on the latest of—

- (a) in the case of an application in respect of which a decision has not yet been made, the date that application is or is treated as made in accordance with regulation 85 (date on which an application is made);
- (b) in the case of an application which was refused and a further application was or was treated as made in accordance with regulation 85 within 4 weeks of the date on which the person moved into the dwelling, the date on which the claim was refused or was treated as made; or
- (c) the date from which the person is treated as occupying the dwelling as a home by virtue of paragraph (8).

(10) Where a person to whom neither paragraph (6)(a) or (16)(c)(x) applies—

- (a) formerly occupied a dwelling but left and remains absent from it through fear of violence in the dwelling or by a person who was formerly a member of the family of that person; and
- (b) has an unavoidable liability to make payments in respect of that dwelling,

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<sup>(95)</sup> Part 8 was amended by sections 70 and 71 of, and paragraphs 72 and 73 of Schedule 7 and Schedule 8 to, the Social Security Act 1998 ([c.14](#)) and section 54 of, paragraph 2 of Schedule 7 and Schedule 8 to, the Welfare Reform Act 2007 ([c.5](#)) and sections 71 and 72 of the Welfare Reform Act 2012 ([c.5](#)).

<sup>(96)</sup> [2003 asp 1](#).

<sup>(97)</sup> [2011 c.20](#).

<sup>(98)</sup> [2006 c.32](#).

the person is to be treated as occupying the dwelling as a home for a period not exceeding 4 reduction weeks.

(11) This paragraph applies to a person who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits that person's needs;
- (b) with the intention of returning to the dwelling which is normally occupied by the person as a home should the residential accommodation prove not to suit the person's needs; and
- (c) while the part of the dwelling which is normally occupied by the person as a home is not let, or as the case may be, sublet.

(12) A person to whom paragraph (11) applies is to be treated as occupying the dwelling normally occupied as the person's home for a period not exceeding 13 weeks beginning from the first day the person enters residential accommodation, but a person is not to be treated as occupying that dwelling as a home if the total of all periods in residential accommodation exceeds 52 weeks.

(13) Subject to paragraph (17), a person is to be treated as occupying a dwelling as a home while that person is temporarily absent from the dwelling for a period not exceeding 13 weeks beginning from the first day of that absence from the home if—

- (a) the person intends to return to occupy the dwelling as a home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sublet; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(14) This paragraph applies to a person who is—

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court, other than a person who is detained in hospital under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003(99), the Criminal Procedure (Scotland) Act 1995(100), the Mental Health Act 1983(101) or the Mental Health (Northern Ireland) Order 1986(102); and
- (b) on temporary release from a detention referred to in sub-paragraph (a) in accordance with rules made under the provisions of the Prisons (Scotland) Act 1989(103), the Prison Act 1952(104) or the Prison Act (Northern Ireland) 1953(105).

(15) Where paragraph (14) applies to a person, for any day when that person is on temporary release—

- (a) if the temporary release was immediately preceded by a period of temporary absence under paragraph (13) or (16), the person is to be treated as if continuing to be absent from the dwelling, despite any occupation of the dwelling;
- (b) for the purposes of paragraph (16)(c)(i), the person is to be treated as if remaining in detention; and
- (c) if the person does not fall within sub-paragraph (a), the person is to be treated as if not occupying a dwelling as a home despite any occupation of the dwelling.

(16) This paragraph applies to a person who is temporarily absent from the dwelling normally occupied by that person as a home and—

- (a) that person intends to return to occupy the dwelling as a home;

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(99) 2003 asp 13.

(100) 1995 c.46.

(101) 1983 c.20.

(102) S.I. 1986/595.

(103) 1989 c.45.

(104) 1952 c.52.

(105) 1953 c.18.

- (b) the part of the dwelling which is normally occupied by the person has not been let or, as the case may be, sublet;
- (c) the person is—
  - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside—
    - (aa) in a dwelling other than the dwelling the person occupies as a home;
    - (bb) in premises approved under section 13 of the Offender Management Act 2007(**106**); or
    - (cc) detained pending sentence upon conviction;
  - (ii) resident in a hospital or similar institution as a patient;
  - (iii) undergoing, or as the case may be, any partner of the person or dependant child of the person is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - (iv) following, in the United Kingdom or elsewhere, a training course;
  - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
  - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (vii) in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
  - (viii) a student to whom paragraph (3) or (6)(b) does not apply;
  - (ix) receiving care provided in residential accommodation other than a person to whom paragraph (11) applies; or
  - (x) a person to whom paragraph (6)(a) does not apply and who left the dwelling occupied as that person's home through fear of violence in that dwelling or by a former member of the person's family; and
- (d) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(17) A person to whom paragraph (16) applies is to be treated as occupying the dwelling normally occupied as a home during any period of temporary absence, but the period during which the person is treated as occupying the dwelling must not exceed 52 weeks beginning from the first day of temporary absence.

### **Remunerative work**

**6.—(1)** Subject to the following provisions of this regulation, a person is to be treated for the purposes of these Regulations as engaged in remunerative work if that person is engaged, or, where hours of work fluctuate, is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) Subject to paragraph (3), in determining the number of hours for which a person is engaged in work where that person's hours of work fluctuate, regard is to be had to the average of hours worked over—

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences); and
  - (b) in any other case, the period of 5 weeks immediately prior to the date of application, or any other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.
- (3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which that person does not work, those periods and any other periods not forming part of such holidays or vacations during which the person is not required to work are to be disregarded in establishing the average hours for which the person is engaged in work.
- (4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours which the person is expected to work in a week.
- (5) A person is to be treated as engaged in remunerative work during any period for which the person is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.
- (6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week is to be treated as not being in remunerative work in that week.
- (7) A person is not to be treated as engaged in remunerative work on any day on which that person is on maternity leave, paternity leave or adoption leave or is absent from work because the person is ill.
- (8) A person is not to be treated as engaged in remunerative work on any day on which the person is engaged in an activity in respect of which—
- (a) a sports award has been made, or is to be made, to the person; and
  - (b) no other payment is made or is expected to be made to the person.

## PART 2

### Families

#### **Entitlement of only one member of a family**

7. The entitlement of one member of a family to council tax reduction in respect of a dwelling excludes entitlement to that reduction in respect of that dwelling for any other member of the family for the same period.

#### **Couples: polygamous marriages**

8. Where a person is a party to a polygamous marriage no party to the marriage is to be taken to be a member of a couple for the purposes of these Regulations.

#### **Applicant in receipt of income-related benefit**

9. Where an applicant in receipt of an income-related benefit is a member of a family, the income and capital of any member of that family is to be treated as the income and capital of the applicant.

## **Responsibility for another person**

**10.**—(1) Subject to the following provisions of this regulation a person is to be treated as responsible for a child or a young person who normally lives with that person.

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household the child or young person is living in, the child or young person is to be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of the child or young person; or
- (b) if there is no such person—
  - (i) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim; or
  - (ii) in any other case the person who has the primary responsibility for the child or young person.

(3) For the purposes of these Regulations a child or young person can be the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this regulation is to be treated as not responsible for the child or young person.

## **Membership of a household**

**11.**—(1) Subject to paragraphs (2) and (3), the applicant and any partner of the applicant and, where the applicant or the applicant’s partner is treated as responsible for a child or young person by virtue of regulation 10 (responsibility for another person) that child or young person and any child of that child or young person, are to be treated as members of the same household even if temporarily absent from that household.

(2) A child or young person is not to be treated as a member of the applicant’s household where that child or young person is—

- (a) boarded out with the applicant or any partner of the applicant under a relevant enactment or placed with the applicant or any partner of the applicant by a local authority under section 22C(5) and (6)(a) or (b) or section 23(2)(a) of the Children Act 1989(**107**) or by a voluntary organisation under section 59(1)(a) of that Act(**108**);
- (b) boarded out or placed with the applicant or any partner of the applicant prior to adoption; or
- (c) placed for adoption with the applicant or any partner of the applicant in accordance with the Adoption and Children Act 2002(**109**) or the Adoption Agencies (Scotland) Regulations 2009(**110**).

(3) Subject to paragraph (4), paragraph (1) does not apply to a child or young person who is not living with the applicant and the child or young person—

- (a) is in the care of, or is being looked after by, a local authority under a relevant enactment;
- (b) has been boarded out or placed with a person other than the applicant prior to adoption; or
- (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

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(**107**) [1989 c.41](#). In relation to England, sections 22A to 22F were substituted for section 23 by section 8 of the Children and Young Persons Act 2008 ([c.23](#)). Section 23(2)(a) remains in force in relation to Wales and was amended by section 49 of the Children Act 2004 ([c.31](#)) and paragraph 7 of Schedule 3 to the Children and Young Persons Act 2008 ([c.23](#)).

(**108**) Section 59(1)(a) was amended by paragraph 14 of Schedule 4 to the Care Standards Act 2000 ([c.14](#)), section 49 of the Children Act 2004 ([c.31](#)) and paragraphs 2 and 23 of Schedule 1 to the Children and Young Persons Act 2008 ([c.23](#)).

(**109**) [2002 c.38](#).

(**110**) [S.S.I. 2009/154](#) as amended by [S.S.I. 2010/172](#) and [2011/211](#).

(4) A child or young person to whom paragraph (3)(a) applies is to be treated as being a member of the applicant's household in any reduction week where—

- (a) that child or young person lives with the applicant for part or all of that reduction week; and
- (b) the relevant authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this regulation “relevant enactment” means the Social Work (Scotland) Act 1968(**111**), the Family Law Reform Act 1969(**112**), the Children and Young Persons Act 1969(**113**), the Children Act 1975(**114**), the Domestic Proceedings and Magistrates’ Courts Act 1978(**115**), the Family Law Act 1986(**116**), the Children Act 1989(**117**), the Armed Forces Act 1991(**118**) and the Children (Scotland) Act 1995(**119**).

## PART 3

### Application of the Regulations

#### Application

12.—(1) These Regulations apply to a person who—

- (a) has not attained the qualifying age for state pension credit; or
- (b) has attained the qualifying age for state pension credit if that person, or any partner of that person, is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance.

(2) Except as provided in paragraph (1)(b), these Regulations do not apply in relation to a person whose partner has attained the qualifying age for state pension credit.

#### Prescribed years

13. The financial year commencing 1st April 2013 and each subsequent financial year are prescribed as the years for which these Regulations apply.

## PART 4

### Entitlement to council tax reduction

#### Conditions of entitlement to council tax reduction

14.—(1) A person who is liable to pay council tax under section 75 of the Act (“relevant person”) is entitled to council tax reduction in respect of a day if the conditions set out in paragraph (3) are satisfied and—

- (a) each of the conditions set out in paragraphs (4) and (5) is satisfied; or

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(111) 1968 c.49.

(112) 1969 c.46.

(113) 1969 c.54.

(114) 1975 c.52.

(115) 1978 c.22.

(116) 1986 c.55.

(117) 1989 c.41.

(118) 1991 c.62.

(119) 1995 c.36.

- (b) the condition set out in paragraph (6) is satisfied.
- (2) A relevant person is not entitled to council tax reduction in respect of any day before the day on which that person's entitlement to council tax reduction commences in accordance with regulation 80 (date on which entitlement is to begin).
- (3) The conditions referred to in paragraph (1) are that the relevant person—
- (a) is for the day liable to pay council tax in respect of a dwelling in which that person resides;
  - (b) is not a person to whom regulation 15 (persons not entitled to council tax reduction: absentees), 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain, 19 (persons not entitled to council tax reduction: persons subject to immigration control) or 20 (persons not entitled to council tax reduction: students) applies; and
  - (c) makes an application for council tax reduction in accordance with Part 10 (applications).
- (4) The condition referred to in paragraph (1)(a) is that there is an appropriate maximum council tax reduction in the case of the relevant person.
- (5) The condition referred to in paragraph (1)(a) is that—
- (a) the day falls within a week in respect of which—
    - (i) the relevant person has no income; or
    - (ii) the relevant person's income does not exceed the applicable amount; or
  - (b) neither paragraph (a)(i) or (ii) applies to the relevant person but amount A exceeds amount B where—
    - (i) amount A is the appropriate maximum council tax reduction in the relevant person's case; and
    - (ii) amount B is 2 6/7 per cent of the difference between the person's income in respect of the week in which the day falls and the applicable amount.
- (6) The condition referred to in paragraph (1)(b) is that—
- (a) no other resident of the dwelling is liable to pay rent to the relevant person in respect of the dwelling; and
  - (b) the relevant person is entitled to alternative maximum council tax reduction because of the income or aggregate incomes of one or more residents of the dwelling.
- (7) For the purpose of paragraph (6) a resident of the dwelling other than the relevant person does not include a resident who—
- (a) falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the Act(120); or
  - (b) is a person described in regulation 79 (residents of a dwelling to whom regulation 14(6) does not apply).
- (8) Subject to paragraph (9) below, where a relevant person is entitled to council tax reduction in respect of a day, the amount to which the person is entitled is—
- (a) if paragraph (5)(a) applies, the amount which is the appropriate maximum council tax reduction in that person's case;
  - (b) if paragraph (5)(b) applies, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given by that paragraph; and

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(120)Schedule 1 was amended by paragraph 152 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), paragraph 18 of schedule 3 to the Regulation of Care (Scotland) Act 2011 (asp 8), paragraph 152 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43), paragraph 123 of Schedule 16 and Schedule 17 to the Armed Forces Act 2006 (c.52) and S.S.I. 2005/465.

- (c) if paragraph (6) applies, the amount which is the appropriate alternative maximum council tax reduction in that person's case.
- (9) Where a relevant person is entitled to council tax reduction in respect of a day and paragraphs (5) and (6) apply, the amount to which the person is entitled is whichever is the greater of—
- (a) the amount referred to in paragraph (8)(a) or, as the case may be, paragraph (8)(b); or
  - (b) the amount referred to in paragraph (8)(c).

#### **Persons not entitled to council tax reduction: absentees**

**15.—(1)** Subject to paragraph (2), a person is not entitled to council tax reduction in respect of a day and a dwelling of which the person is a resident if the person is throughout that day absent from the dwelling.

(2) Paragraph (1) does not include a person whose absence from the dwelling is part of a period of temporary absence.

- (3) In paragraph (2) a “period of temporary absence” means—
- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation and for so long as—
    - (i) the person resides in that accommodation;
    - (ii) the part of the dwelling in which the person usually resides is not let or sub-let; and
    - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,where the person has entered the accommodation for the purpose of ascertaining whether it suits the person's needs and with the intention of returning to the dwelling if it proves not to suit the person's needs;
- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling and for so long as—
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which the person usually resides is not let or sub-let; and
  - (iii) that period is unlikely to exceed 13 weeks;
- (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence and for so long as—
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which the person usually resides is not let or sub-let;
  - (iii) the person is a person to whom paragraph (4) applies; and
  - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed 52 weeks.
- (4) This paragraph applies to a person who is—
- (a) (i) detained in custody on remand pending trial or required, as a condition of bail, to reside—
    - (aa) in a dwelling other than the dwelling referred to in paragraph (1); or
    - (bb) in premises approved under section 13 of the Offender Management Act 2007(**121**); or
  - (ii) detained in custody pending sentence upon conviction;

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(121)2007 c.21.

- (b) resident in a hospital or similar institution as a patient;
  - (c) undergoing, or who has a partner or dependent child who is undergoing, in the United Kingdom or elsewhere, medical treatment or medically approved convalescence in accommodation other than residential accommodation;
  - (d) following, in the United Kingdom or elsewhere, a training course;
  - (e) undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
  - (f) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (g) receiving medically approved care, in the United Kingdom or elsewhere, provided in accommodation other than residential accommodation;
  - (h) a student;
  - (i) receiving care provided in residential accommodation other than a person to whom paragraph (3)(a) applies; or
  - (j) a person who has left the dwelling the person resides in through fear of violence in that dwelling or by a person who was formerly a member of the person's family.
- (5) This paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983(122), the Criminal Procedure (Scotland) Act 1995(123) or the Mental Health (Care and Treatment) (Scotland) Act 2003(124)); and
  - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prisons (Scotland) Act 1989(125) or the Prison Act 1952(126).
- (6) Where paragraph (5) applies to a person, for any day when the person is on temporary release—
- (a) if that temporary release was immediately preceded by a period of temporary absence under paragraph (3)(b) or (c)—
    - (i) for the purposes of paragraph (1), the person is to be treated as if still absent from the dwelling; and
    - (ii) for the purposes of paragraph (4)(a), the person is to be treated as if still in detention;
  - (b) if sub-paragraph (a) does not apply the person is to be treated as absent from the dwelling for the purpose of paragraph (1).

#### **Persons not entitled to council tax reduction: persons treated as not being in Great Britain**

16.—(1) Subject to paragraph (5), a person is not entitled to council tax reduction in respect of a day and a dwelling of which the person is a resident if the person is throughout that day treated as not being in Great Britain in accordance with this regulation.

(2) Subject to paragraph (5), a person is to be treated as not being in Great Britain if that person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

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(122) 1983 c.20.

(123) 1995 c.46.

(124) 2003 asp 13.

(125) 1989 c.45.

(126) 1952 c.52.

(3) A person is not to be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with,—

- (a) regulation 13 of the 2006 Regulations(**127**); or
- (b) Article 6 of Directive [2004/38/EC](#) of the European Parliament and of the Council on the rights of citizens of the Union and their family members to move and reside within the territory of the Member States(**128**).

(5) A person is not to be treated as not being in Great Britain if that person is—

- (a) a qualified person for the purposes of regulation 6 of the 2006 Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in paragraph (a) within the meaning of regulation 7 of the 2006 Regulations;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the 2006 Regulations;
- (d) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**129**), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(**130**);
- (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971(**131**) on the rejection of their claim for asylum;
- (f) a person who has humanitarian protection granted under the rules referred to in subparagraph (e); or
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act(**132**) and who is in the United Kingdom as a result of that person's deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

(6) In this regulation “the 2006 Regulations” means the Immigration (European Economic Area) Regulations 2006(**133**).

### Persons treated as being in Great Britain

17.—(1) A person to whom paragraph (2) or (3) applies is to be treated as being in Great Britain, unless the person is to be treated as not in Great Britain under regulation 16.

(2) This paragraph applies to a person who is outside Great Britain in that person's capacity as—

- (a) an aircraft worker;
- (b) a continental shelf worker who is in a designated area or a prescribed area;
- (c) a Crown servant;
- (d) a mariner; or
- (e) a member of her Majesty's forces.

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(127)Regulation 13 was amended by [S.I. 2012/1547](#).

(128)OJ L 158, 30.4.2004, p.77.

(129)Cmnd 9171.

(130)Cmnd 3906.

(131)[1971 c.77](#).

(132)[1999 c.33](#).

(133)[S.I. 2006/1003](#).

- (3) This paragraph applies to a person if—
- (a) that person is a member of a couple and the other member of the couple is a person to whom paragraph (2) applies; and
  - (b) the person is outside Great Britain by reason only of the fact that the person is living with the other member of the couple.
- (4) In this regulation—
- (a) “aircraft worker” means a person who is employed under a contract of service as a pilot, commander, navigator or other member of the crew of any aircraft or in any other capacity on board any aircraft where—
    - (i) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mail carried on that aircraft; and
    - (ii) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight;
  - (b) “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of Petroleum Act 1998(**134**);
  - (c) “Crown servant” means a person employed by or under the Crown;
  - (d) “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(**135**) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
  - (e) “mariner” means a person who is employed under a contract of service as a master or member of the crew of any ship or vessel or in any other capacity on board any ship or vessel where—
    - (i) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
    - (ii) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage; and
  - (f) “prescribed area” means any area over which Norway or any member State of the European Union (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or that member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998.

#### **Temporary absence from Great Britain**

- 18.—(1) For the purposes of determining whether a person is in Great Britain, a person’s temporary absence from Great Britain is disregarded—
- (a) for the first month of the temporary absence if paragraph (2) applies; or
  - (b) for the first 6 months of the temporary absence if paragraph (3) applies.
- (2) This paragraph applies where—
- (a) the person was entitled to council tax reduction immediately before the beginning of the period of temporary absence; and

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(**134**)[1998 c.17](#).

(**135**)[1964 c.29](#).

- (b) the person has not been absent on more than two occasions in the previous 52 weeks, starting from the first day of the current period of temporary absence.
- (3) This paragraph applies where—
- (a) the person was entitled to council tax reduction immediately before the beginning of the period of temporary absence; and
  - (b) the absence is solely in connection with—
    - (i) the treatment of the person for an illness or physical or mental disability by, or under the supervision of, a person appropriately qualified to carry out that treatment;
    - (ii) the person accompanying a person described in paragraph (5) for the treatment of the person so described for an illness or physical or mental disability by, or under the supervision of, a person appropriately qualified to carry out that treatment; or
    - (iii) the person undergoing medically approved convalescence or care as a result of treatment for an illness or physical or mental disability, where the person had that illness or disability before leaving Great Britain.
- (4) The period in paragraph (1)(a) may be extended by up to a one month if—
- (a) the temporary absence is in connection with the death of—
    - (i) a person described in paragraph (5); or
    - (ii) a close relative of the person or a close relative of a person described in paragraph (5); and
  - (b) the relevant authority is satisfied that it would be unreasonable to expect the person to return to Great Britain within the first month.
- (5) A person described by this paragraph is—
- (a) where the person is a member of a couple, the other member of the couple; or
  - (b) a child or young person for whom the person, or where the person is a member of a couple, the other member of the couple, is responsible.
- (6) In this regulation “appropriately qualified” means qualified to provide medical treatment or physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

#### **Persons not entitled to council tax reduction: persons subject to immigration control**

**19.** A person is not entitled to council tax reduction in respect of a day and a dwelling of which the person is a resident if the person is throughout that day a person subject to immigration control within the meaning given in section 115(9) of the Immigration and Asylum Act.

#### **Persons not entitled to council tax reduction: students**

**20.—(1)** Except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of regulation 14 (conditions of entitlement to council tax reduction), a student to whom paragraph (2) applies is not entitled to council tax reduction in respect of a day and a dwelling of which that student is resident.

(2) Subject to paragraphs (3) and (7), this paragraph applies to a full-time student and students who are treated as not being in Great Britain in accordance with regulation 16 (persons not entitled to council tax reduction: persons treated as not being in Great Britain).

(3) Paragraph (2) does not apply to a student—

- (a) who is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance or who has an award of universal credit;

- (b) who is a lone parent;
- (c) whose applicable amount would, but for this regulation, include disability premium under paragraph 9 of Schedule 1 or severe disability premium under paragraph 11 of that Schedule;
- (d) whose applicable amount would include the disability premium but for the student being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the 1992 Act;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days is to be treated as one continuous period;
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days are to be treated as one continuous period;
- (g) who has a partner who is also a full-time student, if the student or that partner is treated as responsible for a child or young person;
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is—
  - (i) aged under 21 and whose course of study is not a course of higher education; or
  - (ii) a qualifying young person or child within the meaning of section 142 of the 1992 Act (child and qualifying young person);
- (j) in respect of whom—
  - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003([136](#));
  - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under regulation 4(1)(d) of the Students' Allowances (Scotland) Regulations 2007([137](#)) in respect of expenses incurred;
  - (iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
  - (iv) a grant has been made under regulation 38 of the Education (Student Support) Regulations 2011([138](#)), regulation 25 of the Assembly Learning Grants and Loans (Higher Education) (Wales) (No. 2) Regulations 2011([139](#)) and regulation 5 of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009([140](#)); or
  - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 2003([141](#)) or a payment has

(136)Paragraph 9 of Schedule 2 was amended by [S.I. 2008/1477](#).

(137)[2007/153](#) to which there are amendments not relevant to this instrument.

(138)[S.I. 2011/1986](#).

(139)[S.I. 2011/886](#), as amended by [S.I. 2012/14](#) and [2012/1156](#).

(140)[S.I. 2009/373](#), as amended by [S.I. 2010/383](#).

(141)[S.I. 2003/459](#), as amended by [S.I. 2008/254](#).

been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986([142](#)) on account of the student's disability by reason of deafness.

(4) Where paragraph (3)(e) applies to a full-time student and the student ceases, for a period of 56 days or less, to be incapable or to be treated as incapable of work, on the student again becoming incapable or treated as incapable of work, paragraph (3)(e) applies for so long as the student remains incapable or is treated as remaining incapable of work.

(5) For the purposes of paragraph 3(i)(i)—

- (a) the student must have begun, or been enrolled or accepted onto, the course of study before attaining the age of 19; and
- (b) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988([143](#)).

(6) A full-time student to whom paragraph (3)(j) applies, is to be treated as satisfying that subparagraph from the date on which the student made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

(7) Paragraph (2) does not apply to a full-time student for the period specified in paragraph (8) if—

- (a) at any time during an academic year, with the consent of the relevant educational establishment, the student ceases to attend or undertake a course of study because the student is—
  - (i) engaged in caring for another person; or
  - (ii) ill;
- (b) the student has subsequently ceased to be engaged in caring for the person or, as the case may be, has subsequently recovered from that illness; and
- (c) the student is not eligible for a grant or a student loan in respect of the period specified in paragraph (8).

(8) The period specified for the purposes of paragraph (7) is the period, not exceeding one year, beginning on the day on which the student ceased to be engaged in caring for the person or, as the case may be, the day on which the student recovered from that illness and ending on the day before the earliest of—

- (a) the day on which the student resumes attending or undertaking the course of study; or
- (b) the day from which the relevant educational establishment agrees that the student may resume attending or undertaking the course of study.

## PART 5

### Applicable amount

#### Applicable amount

21. Subject to regulations 22 (applicable amount: polygamous marriages) and 23 (applicable amount: persons who have an award of universal credit) an applicant's weekly applicable amount is the aggregate of each of the following amounts which apply in the applicant's case—

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(142)S.I. 1986/594 (N.I. 3).

(143)1988 c.40.

- (a) an amount in respect of the applicant or, if the applicant is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 1 (personal allowances);
- (b) an amount determined in accordance with paragraph 3 of Schedule 1 in respect of any child or young person who is a member of the applicant's family;
- (c) if the applicant is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of Schedule 1 (family premium);
- (d) the amount of any premiums which may be applicable to the applicant, determined in accordance with Parts 3 and 4 of Schedule 1 (disability premiums);
- (e) the amount of either the—
  - (i) work-related activity component; or
  - (ii) support component,
 which may be applicable to the applicant in accordance with Part 5 of Schedule 1 (components); and
- (f) the amount of any transitional addition which may be applicable to the applicant in accordance with Part 6 of Schedule 1 (transitional addition).

**Applicable amount: polygamous marriages.**

22. Where an applicant is a member of a polygamous marriage, the applicant's weekly applicable amount is the aggregate of each of the following amounts which apply in the applicant's case—
- (a) the amount applicable to the applicant and one of the applicant's partners determined in accordance with paragraph 1(3) of Schedule 1 (personal allowances) as if the applicant and that partner were a couple;
  - (b) an amount equal to the difference between the amounts specified in paragraph 1(1)(b) and (3) of Schedule 1 (personal allowances) in respect of each of the applicant's other partners;
  - (c) an amount determined in accordance with paragraph 3 of Schedule 1 (personal allowances) in respect of any child or young person for whom the applicant or a partner of the applicant is responsible and who is a member of the same household;
  - (d) if the applicant or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of Schedule 1 (family premium);
  - (e) the amount of any premium which may be applicable to the applicant determined in accordance with Parts 3 and 4 of Schedule 1 (disability premiums);
  - (f) the amount of either the—
    - (i) work-related activity component; or
    - (ii) support component,
 which may be applicable to the applicant in accordance with Part 5 of Schedule 1 (components); and
  - (g) the amount of any transitional addition which may be applicable to the applicant in accordance with Part 6 of Schedule 1 (transitional addition).

**Applicable amount: persons who have an award of universal credit**

- 23.—(1) Where an applicant or an applicant's partner has, or the partners jointly have, an award of universal credit, in determining the weekly applicable amount for the applicant the relevant authority

must use the calculation or estimate of the maximum amount of the applicant, or the applicant's partner, or partners jointly (as the case may be), subject to the adjustment described in paragraph (2).

(2) The adjustment referred to in paragraph (1) is that where a housing costs element has been awarded to the applicant, the applicant's partner or the partners jointly, the amount of that element is to be deducted from the applicable amount.

(3) In paragraph (1) "maximum amount" means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012(**144**).

## PART 6

### Income and capital

#### CHAPTER 1

##### General

#### **Calculation of income and capital of members of applicant's family and of a polygamous marriage**

**24.**—(1) The income and capital of an applicant's partner is to be treated as income and capital of the applicant and is to be calculated or estimated in accordance with the provisions of this Part in the same way the applicant's income and capital is calculated or estimated and any reference to the "applicant" is, except where the context otherwise requires, to be construed for the purposes of this Part as if it included a reference to the applicant's partner.

(2) Where an applicant or the partner of an applicant is polygamously married to two or more members of their household—

- (a) the applicant is to be treated as possessing capital and income belonging to each of those members; and
- (b) the income and capital of each of those members is to be calculated in accordance with the provisions of this Part as if the member was the applicant.

(3) The income and capital of a child or young person is not to be treated as the income and capital of the applicant.

#### **Circumstances in which capital and income of non-dependant is to be treated as applicant's**

**25.**—(1) Where it appears to the relevant authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax reduction scheme set out in these Regulations and the non-dependant has more capital and income than the applicant, the authority must, except where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, treat the applicant as possessing the capital and income of the non-dependant and must disregard any capital and income which the applicant does possess.

(2) Where an applicant is treated as possessing the capital and income of a non-dependant under paragraph (1) the capital and income of that non-dependant is to be calculated or estimated in accordance with the provisions of this Part as if it was the capital and income of the applicant and any reference to the "applicant" is, except where the context otherwise requires, to be construed for the purposes of this Part as if it were a reference to that non-dependant.

## CHAPTER 2

### Income and capital where there is an award of universal credit

#### **Calculation of income and capital: persons who have an award of universal credit**

**26.**—(1) Where an applicant or an applicant’s partner has, or the partners jointly have, an award of universal credit, in determining the income of the applicant the relevant authority must use the calculation or estimate of the income of the applicant, the applicant’s partner or the partners jointly (as the case may be), made by the Secretary of State for the purpose of determining that award.

(2) The authority must modify the figure for income provided by the Secretary of State to take into account—

- (a) the amount of any universal credit payable less any child care costs element and housing costs element;
- (b) any sum to be disregarded under Schedule 3 (sums to be disregarded in the calculation of earnings);
- (c) any sum to be disregarded under Schedule 4 (sums to be disregarded in the calculation of income other than earnings);
- (d) the income and capital of any partner of the applicant to the extent that it is not taken into account in determining the net income of the person claiming universal credit; and
- (e) regulation 25 (circumstances in which capital and income of non-dependant is to be treated as applicant’s) if the relevant authority determines that the provision applies in the applicant’s case;

(3) Regulations 24 (calculation of income and capital of members of applicant’s family and of a polygamous marriage), 25 (circumstances in which capital and income of non-dependant is to be treated as applicant’s), 27 (calculation of income on a weekly basis), 29 (average weekly earnings of employed earners), 30 (average weekly earnings of self-employed earners), 31 (average weekly income other than earnings), 32 (calculation of average weekly income from working tax credits), 33 (calculation of weekly income), 34 (earnings of employed earners), 35 (calculation of net earnings of employed earners), 36 (earnings of self-employed earners), 37 (calculation of net profit of self-employed earners), 38 (deduction of tax and contributions of self-employed earners), 39 (calculation of income other than earnings), 40 (capital treated as income) and 41 (notional income) apply only for the purpose of determining any modifications which fall to be made to the figure for earned income under paragraph (2).

(4) Where an applicant or an applicant’s partner has, or the partners jointly have, an award of universal credit, in determining the capital of the applicant, the applicant’s partner or the partners jointly (as the case may be) the relevant authority must use the calculation or estimate of the capital of the applicant, the applicant’s partner, or the partners jointly (as the case may be) made by the Secretary of State for the purpose of determining that award.

## CHAPTER 3

### Income

#### **Calculation of income on a weekly basis**

**27.**—(1) For the purposes of regulation 14(5) (conditions of entitlement to council tax reduction) the income of an applicant is to be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be the applicant’s average weekly income in accordance with this chapter and chapters 4 to 6 of this Part and Part 5;

- (b) by adding to that amount the weekly income calculated under regulation 51 (calculation of tariff income from capital); and
  - (c) by then deducting any relevant child care charges to which regulation 28 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (2)(b) is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (3) applies in the applicant's case.
- (2) The conditions referred in paragraph (1)(c) are that—
- (a) the applicant's earnings which form part of the applicant's average weekly income are less than the lower of the relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies; and
  - (b) the applicant or, if the applicant is a member of a couple, either the applicant or the other member of the couple, is in receipt of working tax credit or child tax credit.
- (3) The maximum deduction to which paragraph (1)(c) refers is—
- (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week; and
  - (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.
- (4) For the purposes of paragraph (1), "income" includes capital treated as income under regulation 40 (capital treated as income) and income which an applicant is treated as possessing under regulation 41 (notional income).

### **Treatment of child care charges**

- 28.—(1)** This regulation applies where an applicant is incurring relevant child care charges and—
- (a) is a lone parent and is engaged in remunerative work;
  - (b) is a member of a couple where both are engaged in remunerative work; or
  - (c) is a member of a couple where one member is engaged in remunerative work and the other—
    - (i) is incapacitated as described in paragraph (11);
    - (ii) is a patient; or
    - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- (2) For the purposes of paragraph (1) and subject to paragraph (4), a person to whom paragraph (3) applies is to be treated as engaged in remunerative work for a period not exceeding 28 weeks during which the person—
- (a) is paid statutory sick pay;
  - (b) is paid short-term incapacity benefit at the lower rate under section 30A of the 1992 Act([145](#));
  - (c) is paid an employment and support allowance;

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([145](#))Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 ([c.18](#)) and amended by section 64 of the Welfare Reform and Pensions Act 1999 ([c.30](#)) and paragraph 14 of Schedule 24 to the Civil Partnership Act 2004 ([c.33](#)).

(d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations(146); or

(e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975(147).

(3) This paragraph applies to a person who was engaged in remunerative work immediately before as the case may be—

(a) the first day of the period in respect of which the person was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or

(b) the first day of the period in respect of which earnings are credited.

(4) In a case to which paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(5) Relevant child care charges are the charges for care referred to in paragraphs (6) and (7) and they must be calculated on a weekly basis in accordance with paragraph (10).

(6) The charges referred to in paragraph (5) are charges for care which is provided—

(a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or

(b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following their sixteenth birthday.

(7) The charges referred to in paragraph (5) are charges for care which is provided by one or more of the care providers listed in paragraph (8) and not paid—

(a) in respect of the child's compulsory education;

(b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with regulation 10 (responsibility for another person); or

(c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

(8) The care to which paragraph (7) refers may be provided—

(a) out of school hours, by a school on school premises or by a local authority—

(i) for a child who is not disabled, in respect of the period beginning on the child's eighth birthday and ending on the day preceding the first Monday in September following the child's fifteenth birthday; or

(ii) for a child who is disabled, in respect of the period beginning on the child's eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday;

(b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999(148);

(c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010(149);

(146)Regulation 4ZA was inserted by [S.I. 1996/206](#) and amended by [S.I. 1996/206](#), [1997/2197](#), [2000/636](#) and [1981](#), [2001/3070](#), [2008/1826](#), [2009/2655](#) and [3152](#). Paragraph 7 of Schedule 1B was inserted by [S.I. 1996/206](#) and amended by [S.I. 2009/3152](#) and [2010/2429](#). Paragraph 14 of Schedule 1B was inserted by [S.I. 1996/206](#) and amended by [S.I. 2002/2689](#) and [2010/2429](#).

(147)[S.I. 1975/556](#). Regulation 8B was inserted by [S.I. 1996/2367](#) and amended by [S.I. 2000/3120](#), [2003/521](#), [2008/1554](#), [2010/385](#).

(148)[S.I. 1999/3110](#).

(149)[2010 nawm 1](#).

- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care the person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010(**150**);
- (e) by—
  - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010;
  - (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act;
- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002(**151**);
- (g) by a person who is registered under chapter 2 or 3 of Part 3 of the Childcare Act 2006(**152**);
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under chapter 2 of Part 3 of that Act does not apply by virtue of that subsection;
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006(**153**) in circumstances where the requirement to register under chapter 3 of Part 3 of that Act does not apply by virtue of that subsection;
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006(**154**) in circumstances where the care is not included in the meaning of “childcare” for the purposes of Parts 1 and 3 of that Act by virtue of that subsection;
- (k) by a foster carer or kinship carer approved under the Looked After Children (Scotland) Regulations 2009(**155**) in relation to a child other than a child who has been placed with that carer—
  - (i) by virtue of a requirement of the children’s hearing under section 70(3)(a) of the Children (Scotland) Act 1995(**156**);
  - (ii) by a local authority exercising the right to determine the residence of a child in respect of whom a permanence order has been granted under section 81 of the Adoption and Children (Scotland) Act 2007(**157**); or
  - (iii) in accordance with the Looked After Children (Scotland) Regulations 2009;
- (l) by a foster parent under the Fostering Services (England) Regulations 2011(**158**) or the Fostering Services (Wales) Regulations 2003(**159**) in relation to a child other than one whom the foster parent is fostering;
- (m) by a carer under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010(**160**) or the Domiciliary Care Agencies (Wales) Regulations 2004(**161**); or
- (n) by a person who is not a relative of the child wholly or mainly in the child’s home.

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(150)S.I. 2010/2839 (W. 233).

(151)2002 c.21.

(152)2006 c.21.

(153)Section 53(2) was amended by S.I. 2012/976.

(154)Section 18(5) was amended by paragraph 19 of Schedule 1 to the Children and Young Persons Act 2008 (c.23) and S.I. 2010/183.

(155)S.S.I. 2009/210.

(156)1995 c.36.

(157)2007 asp 4.

(158)S.I. 2011/581.

(159)S.I. 2003/237 (W.35).

(160)S.I. 2010/781.

(161)S.I. 2004/219 (W.23).

(9) In paragraphs (6) and (8)(a) “the first Monday in September” means the Monday which first occurs in the month of September in any year.

(10) Relevant child care charges must be estimated over a period, not exceeding a year, that is appropriate to allow the average weekly charge to be estimated accurately having regard to information about the amount of that charge provided by the person providing the care.

(11) For the purposes of paragraph (1)(c), the other member of a couple is incapacitated where—

- (a) the applicant’s applicable amount includes a disability premium under paragraph 9 of Schedule 1 on account of the other member’s incapacity or the work-related activity component under paragraph 21 of that Schedule or the support component under paragraph 22 of that Schedule on account of that other member having limited capability for work;
- (b) the applicant’s applicable amount would include a disability premium under paragraph 9 of Schedule 1 on account of the other member’s incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the 1992 Act(162);
- (c) the applicant’s applicable amount would include the support component under paragraph 22 of Schedule 1 or the work-related activity component under paragraph 21 of Schedule 1 on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations;
- (d) the applicant is, or is treated as, incapable of work and has been incapable, or treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A(163) of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 56 days are to be treated as one continuous period;
- (e) the applicant has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days are to be treated as one continuous period;
- (f) there is payable in respect of the other member one or more of the following pensions or allowances—
  - (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the 1992 Act(164);
  - (ii) attendance allowance under section 64 of the 1992 Act(165);
  - (iii) severe disablement allowance under section 68 of the 1992 Act(166);
  - (iv) disability living allowance;
  - (v) personal independence payment;

(162)Section 171E was inserted by section 6(1) of the Social Security (Incapacity for Work) Act 1994 (c.18) and amended by paragraph 76 of Schedule 7 to the Social Security Act 1998 (c.14).

(163)Part 12A was inserted by sections 5 and 6 of the Social Security (Incapacity for Work) Act 1994 (c.18) and amended by paragraph 76 of Schedule 7 to the Social Security Act 1998 (c.14), section 61 of, and paragraphs 23 and 24 of Schedule 8 to, the Welfare Reform and Pensions Act 1999 (c.30) and S.I. 1996/525.

(164)Schedule 4 was substituted by a new schedule 4 by S.I. 1993/349 and amended by section 2 of the Social Security (Incapacity for Work) Act 1994 (c.18), section 54 of, and paragraph 14 of Schedule 8 to, the Welfare Reform and Pensions Act 1999 (c.30), section 54 of the Welfare Reform and Pensions Act 1999 (c.30), paragraph 15 of Schedule 1 to the Child Benefit Act 2005 (c.6)S.I. 2002/1457, 2003/938, 2008/3270 and 2012/780 and 834.

(165)Section 64 was amended by section 66 of the Welfare Reform and Pensions Act 1999 (c.30).

(166)Section 68 was repealed by Schedule 13 to the Welfare Reform and Pensions Act 1999 (c.30), subject to savings provisions in S.I. 2000/2958.

- (vi) increase of disablement pension under section 104 of the 1992 Act;
  - (vii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv), (v) or (vi) above; or
  - (viii) main phase employment and support allowance;
- (g) a pension or allowance to which sub-paragraph (f)(ii), (iv), (v) or (vi) refers was payable on account of the other member's incapacity but has ceased to be payable in consequence of the other member becoming a patient, which in this regulation means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005([167](#));
- (h) sub-paragraph (f) or (g) would apply to the other member if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (i) the other member has an invalid carriage or other vehicle provided under section 46 of the National Health Service (Scotland) Act 1978([168](#)), paragraph 9(1) of Schedule 1 to the National Health Service Act 2006([169](#)) or article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972([170](#)).
- (12) Where paragraph (11)(d) applies and the applicant ceases to be, or to be treated as, incapable of work but within a period of 56 days or less of that cessation the applicant is, or is treated as, incapable of work, paragraph 11(d) applies from the time the applicant is again, or is again treated as, incapable of work for so long as the applicant is, or is treated as, incapable of work.
- (13) Where paragraph (11)(e) applies and the applicant ceases, to have, or to be treated as having, limited capability for work but within a period of 84 days or less of that cessation the applicant has, or is treated as having, limited capability for work, paragraph 11(e) applies from the time the applicant has again, or is again treated as having, limited capability for work for so long as that situation continues.
- (14) For the purposes of paragraphs (6) and (8)(a), a person is disabled if the person is a person—
- (a) in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because the person is a patient;
  - (b) who has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a local authority in Scotland or is registered as blind in a register compiled under section 29 of the National Assistance Act 1948([171](#)) (welfare services)([172](#)); or
  - (c) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following the person's fifteenth birthday and ending on the day preceding the person's sixteenth birthday.

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(167) S.I. 2005/3360.

(168) 1978 c.29.

(169) 2006 c.41. Paragraph 9(1) was substituted by section 17(10) of the Health and Social Care Act 2012 (c.7).

(170) S.I. 1972/1265.

(171) 1948 c.29.

(172) Section 29 was amended by section 1 of the National Assistance (Amendment) Act 1959 (c.30), Schedule 4 to the Mental Health (Scotland) Act 1960 (c.61), Part 1 of Schedule 9 to the Social Work (Scotland) Act 1968 (c.49), section 195 of, and paragraph 2 of Schedule 23 and Schedule 30 to, the Local Government Act 1972 (c.70), paragraph 3 of Schedule 3 to the Employment and Training Act 1973 (c.50), section 30 and Schedule 10 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 44 of the National Health Service and Community Care Act 1990 (c.19), paragraph 8 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43) and section 147 of the Health and Social Care Act 2008 (c.14).

(15) For the purposes of paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if engaged in remunerative work for the period specified in paragraph (16) (“the relevant period”) provided that—

- (a) in the week before the period of maternity leave, paternity leave or adoption leave began the person was in remunerative work;
- (b) the person is incurring relevant child care charges; and
- (c) the person is entitled to either statutory maternity pay under section 164 of the 1992 Act(173), ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of the 1992 Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of the 1992 Act(174), statutory adoption pay by virtue of section 171ZL of the 1992 Act(175), maternity allowance under section 35 of the 1992 Act(176) or qualifying support.

(16) For the purposes of paragraph (15) the relevant period begins on the day on which the person’s maternity leave, paternity leave or adoption leave commences and ends on the earliest of the following dates—

- (a) the date that leave ends;
- (b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
- (c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credit ends.

(17) In this regulation—

- (a) “qualifying support” means income support to which the person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations; and
- (b) “child care element of working tax credit” means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

### Average weekly earnings of employed earners

**29.—(1)** Where an applicant’s income consists of earnings from employment as an employed earner the applicant’s average weekly earnings are to be estimated by reference to the earnings from that employment—

- (a) over a period immediately preceding the reduction week in which the application is made or treated as made and being a period of—
  - (i) 5 weeks, if the applicant is paid weekly; or
  - (ii) 2 months, if the applicant is paid monthly; or
- (b) whether or not sub-paragraph (a)(i) or (ii) applies, where an applicant’s earnings fluctuate, over such other period preceding the reduction week in which the application is made or treated as made as may, in any particular case, enable the applicant’s average weekly earnings to be estimated more accurately.

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(173)Section 164 was amended by paragraph 12 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 6 of Schedule 7 and Schedule 8 to the Employment Act 2002 (c.22).

(174)Sections 171ZA and 171ZB were inserted by section 2 of the Employment Act 2002 (c.22).

(175)Section 171ZL was inserted by section 4 of the Employment Act 2002 (c.22) and amended by S.I. 2006/2012 and 2011/1740.

(176)Section 35 was amended by section 2(1)(a) of the Still-Birth (Definition) Act 1992 (c.29), section 67 of the Social Security Act 1998 (c.14), section 53 of the Welfare Reform and Pensions Act 1999 (c.30), paragraph 4 of Schedule 7 to the Employment Act 2002 (c.22), paragraph 6 of Schedule 1 to the Work and Families Act 2006 (c.18), section 53(2)(a) of the Welfare Reform and Pensions Act 1999 (c.30) and S.I. 1994/1230.

(2) Where the applicant has been in that employment for less than the period specified in paragraph (1)(a)(i) or (ii)—

(a) and has received earnings for the period that the applicant has been in that employment and those earnings are likely to represent the average weekly earnings from that employment the applicant's average weekly earnings are to be estimated by reference to those earnings; and

(b) in any other case, the relevant authority must require the applicant's employer to furnish an estimate of the applicant's likely weekly earnings over such period as the relevant authority may require and the applicant's average weekly earnings are to be estimated by reference to that estimate.

(3) Where the amount of an applicant's earnings changes during a period of entitlement to council tax reduction average weekly earnings are to be estimated by reference to the applicant's likely earnings from the employment over a period that is appropriate to allow the average weekly earnings to be estimated accurately but the length of the period is not in any case to exceed 52 weeks.

(4) For the purposes of this regulation the applicant's earnings are to be calculated in accordance with chapter 4 of this Part.

#### **Average weekly earnings of self-employed earners**

**30.**—(1) Where an applicant's income consists of earnings from employment as a self-employed earner the applicant's average weekly earnings are to be estimated by reference to the earnings from that employment over such period as is appropriate in order that the applicant's average weekly earnings may be estimated accurately but the length of the period is not in any case to exceed 52 weeks.

(2) For the purposes of this regulation the applicant's earnings are to be calculated in accordance with chapter 5 of this Part.

#### **Average weekly income other than earnings**

**31.**—(1) An applicant's income which does not consist of earnings must, except where paragraph (2) applies, be estimated over a period that is appropriate to allow the applicant's average weekly income to be estimated accurately but the length of the period is not in any case to exceed 52 weeks and nothing in this paragraph authorises a relevant authority to disregard any income other than that specified in Schedule 4.

(2) The period over which any benefit under the benefit Acts is to be taken into account is the period in respect of which that benefit is payable.

(3) For the purposes of this regulation income other than earnings is to be calculated in accordance with chapter 6 of this Part.

#### **Calculation of average weekly income from working tax credits**

**32.**—(1) This regulation applies where an applicant receives a working tax credit.

(2) Where this regulation applies, the period over which a working tax credit is to be taken into account is the period set out in paragraph (3).

(3) Where the instalment in respect of which payment of a working tax credit is made is—

(a) a daily instalment, the period is one day, being the day in respect of which the instalment is paid;

(b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;

- (c) a 2 weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid; or
- (d) a 4 weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

### **Calculation of weekly income**

**33.**—(1) For the purposes of regulations 29 (average weekly earnings of employed earners), 31 (average weekly income other than earnings) and 32 (calculation of average weekly income from tax credits), where the period in respect of which a payment of income is made—

- (a) does not exceed a week, the weekly amount is the amount of that payment;
- (b) exceeds a week, the weekly amount is to be determined—
  - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
  - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

(2) For the purposes of regulation 30 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing the applicant's earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.

## CHAPTER 4

### Employed earners

#### **Earnings of employed earners**

**34.**—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of the applicant's employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by an applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
  - (i) travelling expenses incurred by the applicant between the applicant's home and place of employment; or
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of the applicant's family owing to the applicant's absence from home;
- (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996<sup>(177)</sup> (remedies and compensation for unfair dismissal);

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<sup>(177)</sup>Section 112(4) was amended by paragraph 36 of Schedule 7 to the Employment Act 2002 ([c.22](#)) and Schedule 9 to the Employment Relations Act 1999 ([c.26](#)). Section 117(3)(a) was amended by paragraph 37 of Schedule 7 to the Employment Act 2002.

- (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996(178) (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
  - (i) any such sum as is referred to in section 112 of the 1992 Act(179) (certain sums to be earnings for social security purposes);
  - (j) any statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
  - (k) any remuneration paid by or on behalf of an employer to an applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because the applicant is ill; and
  - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001(180).
- (2) Earnings do not include—
- (a) subject to paragraph (3), any payment in kind;
  - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
  - (c) any occupational pension; or
  - (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.
- (3) Paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in paragraph (1) (l).

### Calculation of net earnings of employed earners

35.—(1) For the purposes of regulation 29 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account are, subject to paragraph (2), the applicant's net earnings.

(2) Any sum, where applicable, specified in Schedule 3 is to be disregarded when calculating an applicant's net earnings.

(3) For the purposes of paragraph (1) net earnings are, except where paragraph (6) applies, to be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
  - (i) income tax;
  - (ii) primary Class 1 contributions under the 1992 Act;
- (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with paragraph (5) in respect of any qualifying contribution payable by the applicant; and

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(178)Sections 34 and 70 were amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 2011/1133. Section 64 was amended by S.I. 1999/3232.

(179)Section 112 was amended by paragraph 21 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 51 of Schedule 1 to the Employment Rights Act 1996 (c.18).

(180)S.I. 2001/1004. Part 5 of Schedule 3 was amended by section 46 of the Finance Act 1988 (c.39), section 89 of the Finance Act 1994 (c.9), Schedule 13 to the Finance Act 2004 (c.12), sections 60 and 62 of the Finance Act 2006 (c.25), S.I. 2001/2412, 2002/307, 2003/2958, 2004/770, 2005/778, 2006/883 and 2003, 2007/2091, 2008/607, 2009/600, and 2011/1000.

- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the 1992 Act.
- (4) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.
- (5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution is to be determined—
- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365; and
  - (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- (6) Where the earnings of an applicant are estimated under regulation 29(2)(b) (average weekly earnings of employed earners), the applicant’s net earnings are to be calculated by taking into account those earnings over the assessment period, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35(1) of the Income Tax Act 2007(**181**) (personal allowance for those aged under 65) as is appropriate to the applicant’s circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph are to be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by the applicant under the 1992 Act in respect of those earnings if such contributions were payable; and
  - (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

## CHAPTER 5

### Self-employed earners

#### **Earnings of self-employed earners**

**36.—(1)** Subject to paragraph (2), “earnings” means in the case of employment as a self-employed earner, the gross income of the employment.

**(2)** “Earnings” does not include any payment to which paragraph 30 or 31 of Schedule 4 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor does it include any sports award.

**(3)** This paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; and
  - (b) any payment in respect of any—
    - (i) book registered under the Public Lending Right Scheme 1982(182); or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,
- where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.
- (4) Where the applicant's earnings consist of any items to which paragraph (3) applies, those earnings are to be taken into account over a period equal to the number of weeks equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax reduction to which the applicant would have been entitled had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

### Calculation of net profit of self-employed earners

37.—(1) For the purposes of regulation 30 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account are—

- (a) in the case of a self-employed earner who is engaged in employment on that earner's own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975(183), that earner's share of the net profit derived from that employment, less—
  - (i) an amount in respect of income tax and social security contributions payable under the 1992 Act calculated in accordance with regulation 38 (deduction of tax and contributions for self-employed earners); and
  - (ii) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(2) Any sum, where applicable, specified in Schedule 3 is to be disregarded when calculating a self-employed earner's net profit.

(3) For the purposes of paragraph (1)(a) the net profit of the employment is, except where paragraph (9) applies, to be calculated by taking into account the earnings of the employment over the assessment period less—

- (a) subject to paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of—
  - (i) income tax; and
  - (ii) social security contributions payable under the 1992 Act; and
- (c) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

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(182)The Scheme is set out in the Appendix to S.I. 1982/719. It has been amended by S.I. 1982/719, 1983/480 and 1688, 1984/1847, 1985/1581, 1986/2001, 1986/2103, 1987/1908, 1988/2070, 1989/2188, 1990/2360, 1991/1618, 1992/3044 and 3049, 1996/1338 and 3237, 1997/1576, 1999/420, 1042 and 3304, 2000/3319, 2001/3984, 2002/3123 and 3135, 2003/3045, 2004/1258 and 3218, 2005/1519 and 3351, 2006/3294, 2009/3259, 2011/54 and 2012/63.

(183)S.I. 1975/529.

(4) For the purposes of paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to paragraph (6), no deduction is to be made under paragraph (3)(a) or (4), in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment; or
- (g) any debts, except bad debts proved to be bad, but this sub-paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; and
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The relevant authority is to refuse to make a deduction in respect of any expenses under paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction is not to be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the employment;
- (b) a deduction is to be made under paragraph (3)(a) or (4) in respect of—
  - (i) the excess of any value added tax paid over value added tax received in the assessment period;
  - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair; and
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—

(a) an amount in respect of—

- (i) income tax; and
  - (ii) social security contributions payable under the 1992 Act;
- calculated in accordance with regulation 38 (deduction of tax and contributions of self-employed earners); and

(b) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and is also engaged in one or more other employments as a self-employed or employed earner

any loss incurred in any one of those employments is not to be offset against earnings in any other of the applicant's employments.

(11) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period, and for the purposes of this regulation the daily amount of the qualifying premium is to be determined—

- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365; and
- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

(12) In this regulation “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is payable on or after the date of the application.

### **Deduction of tax and contributions of self-employed earners**

38.—(1) The amount to be deducted in respect of income tax under regulation 37(1)(b)(i), (3) (b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) is to be calculated on the basis of the amount of chargeable income and as if that income was assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35(1) of the Income Tax Act 2007 (personal allowance for those aged under 65) as is appropriate to the applicant's circumstances, but, if the assessment period is less than one year the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph are to be calculated on a pro rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 37(1) (b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the 1992 Act<sup>(184)</sup> at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act<sup>(185)</sup> (small earnings exception) for the tax year applicable to the assessment period, but if the assessment period is less than one year, the amount specified for that tax year is to be reduced pro rata; and

- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the 1992 Act<sup>(186)</sup> (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period, but if the assessment period is less than one year those limits are to be reduced pro rata.

(3) In this regulation “chargeable income” means—

- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under regulation 37(3)(a) or, as the case may be, (4); and
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

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<sup>(184)</sup>Section 11(1) was amended by S.I. 2012/807. Section 11(3) was amended by paragraph 12 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

<sup>(185)</sup>Section 11(4) was amended by paragraph 12 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and S.I. 2012/807.

<sup>(186)</sup>Section 15 was amended by section 13 of the Limited Liability Partnerships Act 2000 (c.12), section 3(1) of the National Insurance Contributions Act 2002 (c.19), paragraph 420 of Schedule 1 and Schedule 3 to the Income Tax (Trading and Other Income) Act 2005 (c.5), section 2(1) of the National Insurance Contributions Act 2011 (c.3), and S.I. 2011/938 and 2012/807.

## CHAPTER 6

### Other income

#### **Calculation of income other than earnings**

**39.**—(1) For the purposes of regulation 31 (average weekly income other than earnings), the income of an applicant which does not consist of earnings to be taken into account is, subject to paragraphs (2) to (6), the applicant's gross income and any capital treated as income under regulation 40 (capital treated as income).

(2) Any sum, where applicable, specified in Schedule 4 is to be disregarded when calculating an applicant's gross income under paragraph (1).

(3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) is the gross amount payable.

(4) Where the applicant or any partner of the applicant is receiving a contributory employment and support allowance and that allowance has been reduced under regulation 63 of the Employment and Support Allowance Regulations<sup>(187)</sup> the amount of that allowance to be taken into account is the amount as if it had not been reduced.

(5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002<sup>(188)</sup> is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph (1) is the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(6) In paragraph (5), “tax year” means a period beginning on 6th April in one year and ending on 5th April in the next.

(7) Paragraphs (8) and (9) apply where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) the person abandons, or is dismissed from, the relevant course of study before payment is made of the final instalment of the relevant payment.

(8) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (7) applies, is to be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

where—

- (a) A = the total amount of the relevant payment which the person would have received had the person remained a student until the last day of the academic term in which the person abandoned, or was dismissed from, the relevant course of study, less any deduction under regulation 59(6) (treatment of student loans);
- (b) B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, the relevant course of study;
- (c) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under regulation 59(2) (treatment of student loans)—

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(187)Regulation 63 was amended by S.I. 2011/1349.

(188)2002 c.21.

- (i) had the person not abandoned, or been dismissed from, the relevant course of study; and
  - (ii) in the case of a person who was not entitled to council tax reduction immediately before abandonment of or dismissal from the course of study, had the person, at that time, been entitled to housing benefit; and
- (d) D = the number of reduction weeks in the assessment period.

(9) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (7) applies, is to be calculated by applying the formula in paragraph (8) but as if—

A = the total amount of relevant payments which the person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under regulation 59(6) (treatment of student loans).

(10) In this regulation—

“assessment period” means—

- (a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, the relevant course of study and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, the relevant course of study and ending with the reduction week which includes the earlier of—
  - (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to the person;

“quarter” in relation to an assessment period means a period beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December; and

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in regulation 54(7) (calculation of grant income) or both.

(11) For the avoidance of doubt the following is income to be taken into account under paragraph (1)—

- (a) any payment to which regulation 34(2) (payments which are not earnings of employed earners) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act<sup>(189)</sup>, including support provided by virtue of regulations made under Schedule 9 to that Act<sup>(190)</sup>, the amount of support provided in respect of essential living needs of the applicant and the applicant’s dependants (if any) as specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

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<sup>(189)</sup>Section 95 was amended by section 50 of the Nationality, Immigration and Asylum Act 2002 (c.41).

<sup>(190)</sup>Schedule 9 was amended by section 45 and section 50 of the Nationality, Immigration and Asylum Act 2002 (c.41).

## **Capital treated as income**

**40.**—(1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, is, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with chapter 7 of this Part (capital) exceeds £16,000, to be treated as income.

(2) Any payment received under an annuity is to be treated as income.

(3) Any earnings to the extent that they are not a payment of income are to be treated as income.

(4) Any Career Development Loan paid pursuant to section 2 of the 1973 Act is to be treated as income.

(5) Where an agreement or court order provides that payments is to be made to the applicant in consequence of any personal injury to the applicant and that the payments are to be made, wholly or partly, by way of periodic payments, any periodic payment received by the applicant (but not a payment which is treated as capital by virtue of this Part) is to be treated as income.

## **Notional income**

**41.**—(1) Where a relevant authority is of the opinion that an applicant has been deprived of income as a result of actings by that applicant carried out for the purpose of securing entitlement to council tax reduction or increasing the amount of that reduction, that income is to be treated as income of the applicant.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) a personal pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- (d) any sum to which paragraph 51(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a) of that Schedule;
- (e) any sum to which paragraph 50(a) of Schedule 5 refers;
- (f) rehabilitation allowance under section 2 of the 1973 Act;
- (g) child tax credit;
- (h) working tax credit; or
- (i) any income, other than earnings or earnings of an employed earner, arising out of the applicant's participation in a service user group,

any income which would become available to the applicant upon application being made, but which has not been acquired by the applicant, is to be treated as possessed by the applicant from the date on which it could be expected to be acquired if application was made.

(3) Subject to paragraph (4) any payment of income made—

- (a) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, to be treated as possessed by that applicant or, as the case may be, by that family member;
- (b) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where it is not a payment referred to in sub-paragraph (a), to be treated as possessed by that applicant or by that family member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or

- rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or family member is liable; or
- (c) to a single applicant or a member of the applicant's family in respect of a third party (but not in respect of another member of that family) is to be treated as possessed by that applicant or, as the case may be, that family member to the extent that it is kept or used by that applicant or used by or on behalf of any member of the family.
- (4) Paragraph (3) does not apply in respect of a payment of income made—
- (a) under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund;
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994([191](#)) (concessionary coal);
  - (c) pursuant to section 2 of the 1973 Act in respect of a person's participation in a qualifying course within the meaning given by regulation 17A(7) of those Regulations([192](#));
  - (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme; or
  - (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) the estate of the person in respect of whom the payment has been made is subject to sequestration, a judicial factor has been appointed on the person's estate under section 41 of the Solicitors (Scotland) Act 1980([193](#)), the person has entered a protected trust deed within the meaning of section 73(1) of the Bankruptcy Act 1985([194](#)) or a bankruptcy order within the meaning of section 381(1) of the Insolvency Act 1986 has been made in respect of the person;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in head (i) and any member of the person's family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year, but not more than 14 days after that date, the applicant is to be treated as possessing that benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the relevant authority selects to apply in its area, to the date on which the altered rate is to take effect.
- (6) Subject to paragraph (7), where—
- (a) an applicant performs a service for another person; and
  - (b) the person makes no payment of earnings or pays less than that paid for a comparable employment in the area,
- the applicant is to be treated as possessing the amount of earnings (if any) that would be reasonable for that employment unless the applicant satisfies the relevant authority that the means of the person are insufficient to pay, or to pay more, for the service.

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(191)[1994 c.21](#).

(192)Regulation 17A was inserted by [S.I. 1998/1274](#).

(193)[1980 c.46](#). Section 41 was amended by paragraph 13 of Schedule 1 and Schedule 2 to the Solicitors (Scotland) Act [1988 \(c.42\)](#), and paragraph 19 of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act [1985 \(c.73\)](#).

(194)[1985 c.66](#). Section 73(1) was relevantly amended by section 20 of the Bankruptcy and Diligence etc. (Scotland) Act [2007 \(asp 3\)](#).

(7) Paragraph (6) does not apply—

- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the relevant authority is satisfied in any of those cases that it is reasonable for the applicant to provide those services free of charge; or
- (b) in a case where the service is performed in connection with—
  - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations(195); or
  - (ii) the applicant's participation or the participation of any partner of the applicant in an employment or training programme as defined in regulation 19(3) of those Regulations(196) for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or
- (c) to an applicant who is participating in a work placement approved by the Scottish Ministers or the Secretary of State (or by a person providing services to the Scottish Ministers or the Secretary of State) before the placement starts.

(8) In paragraph (7)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.

(9) Where an applicant is treated as possessing income under any of paragraphs (1) to (5), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had been made and as if it was income possessed by the applicant.

(10) Where an applicant is treated as possessing any earnings under paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had been made and as if they were earnings the applicant possessed except that regulation 35(3) (calculation of net earnings of employed earners) does not apply and the applicant's net earnings are to be calculated by taking into account the earnings which the applicant is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the starting rate or, as the case may be, the starting rate and the basic rate of tax applicable to the assessment period less the personal relief to which the applicant is entitled under section 35(1) of the Income Tax Act 2007 (personal allowance for those aged under 65) as is appropriate to the applicant's circumstances, but, if the assessment period is less than one year, the earnings to which the starting rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph are to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by the applicant under the 1992 Act in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

(11) Paragraphs (1), (2), (3) and (6) do not apply in respect of any income, other than earnings or earnings of an employed earner, arising out of the applicant's participation in a service user group.

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(195)Regulation 19(1)(q) was amended by S.I. 2011/789.

(196)Regulation 19(3) was amended by S.I. 2006/1402.

## CHAPTER 7

### Capital

#### **Capital limit**

**42.** No person is entitled to council tax reduction if that person's capital exceeds £16,000.

#### **Calculation of capital**

**43.—(1)** Subject to paragraph (2), the capital of an applicant to be taken into account when calculating entitlement to council tax reduction is the whole of the applicant's capital calculated in accordance with this Part and any income treated as capital under regulation 45 (income treated as capital).

(2) Any capital, where applicable, specified in Schedule 5 is to be disregarded when calculating an applicant's capital.

#### **Disregard of capital of child and young person**

**44.** The capital of a child or young person who is a member of the applicant's family is not to be treated as capital of the applicant.

#### **Income treated as capital**

**45.—(1)** Any earnings derived from employment to which paragraph 9 of Schedule 3 applies and paid at intervals of at least one year is to be treated as capital.

(2) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E of the Income and Corporation Taxes Act 1988 is to be treated as capital.

(3) Any holiday pay which is not earnings under regulation 34(1)(d) (earnings of employed earners) is to be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 3, 4, 6, 10, 16, 30 to 33, 50 or 51 of Schedule 5, any income derived from capital is to be treated as capital, but only from the date it is normally due to be credited to the applicant's account.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund, is to be treated as capital.

(7) The gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route is to be treated as capital, but only in so far as those receipts were payable into a special account during the period in which the person was receiving such assistance.

(8) Any arrears of subsistence allowance paid as a lump sum is to be treated as capital.

(9) Any arrears of working tax credit or child tax credit is to be treated as capital.

#### **Calculation of capital in the United Kingdom**

**46.** Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 per cent; and
- (b) the amount of any encumbrance secured on it.

### **Calculation of capital outside the United Kingdom**

**47.** Capital which an applicant possesses in a country outside the United Kingdom is to be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value; and
- (b) in a case where there is a prohibition, at the price it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any encumbrances secured on it.

### **Notional capital**

**48.—(1)** Where an applicant has been deprived of capital as a result of actings by that applicant carried out for the purpose of securing entitlement to council tax reduction or increasing the amount of that reduction that capital is to be treated as capital of the applicant except to the extent that it is reduced in accordance with regulation 49 (diminishing notional capital).

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5;
- (d) a personal pension scheme or a payment made by the Board of the Pension Protection Fund;
- (e) any sum to which paragraph 51(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 51(1)(a) of that Schedule;
- (f) any sum to which paragraph 50(a) of Schedule 5 refers;
- (g) child tax credit; or
- (h) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by the applicant, is to be treated as possessed by the applicant from the date on which it could be expected to be acquired if an application was made.

(3) Subject to paragraph (4) any payment of capital, made—

- (a) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, to be treated as possessed by that applicant or, as the case may be, by that family member;
- (b) to a third party in respect of a single applicant or in respect of a member of the applicant's family (but not a member of the third party's family) is, where it is not a payment referred to in sub-paragraph (a), to be treated as possessed by that applicant or by that family member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or

rent of that applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or family member is liable; or

- (c) to a single applicant or a member of the applicant's family in respect of a third party (but not in respect of another member of the family) is to be treated as possessed by that single applicant or, as the case may be, that family member to the extent that it is kept or used by the applicant or used by or on behalf of any member of the family.

(4) Paragraph (3) does not apply in respect of a payment of capital made—

- (a) under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act in respect of a person's participation in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations;
- (c) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (d) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme; or
- (e) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
  - (i) the estate of the person in respect of whom the payment has been made is subject to sequestration, a judicial factor has been appointed on the person's estate under section 41 of the Solicitors (Scotland) Act 1980, the person has entered a protected trust deed within the meaning of section 73(1) of the Bankruptcy Act 1985 or a bankruptcy order within the meaning of section 381(1) of the Insolvency Act 1986 has been made in respect of the person;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in head (i) and any member of the person's family does not possess, or is not treated as possessing, any other income apart from that payment.

(5) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, the applicant is to be treated as sole owner or partner and in such a case—

- (a) the value of the applicant's actual holding in that company must be disregarded notwithstanding regulation 43 (calculation of capital); and
- (b) subject to paragraph (6), the applicant is to be treated as possessing an amount of capital equal to what would have been the applicant's share of the value of the capital of that company if the applicant had been sole owner or partner.

(6) For so long as the applicant undertakes activities in the course of the business of the company, the amount which the applicant is treated as possessing under paragraph (5) is to be disregarded.

(7) Where an applicant is treated as possessing capital under any of paragraphs (1) to (3) the provisions of this chapter apply for the purposes of calculating the amount of the capital as if it were actual capital possessed by the applicant

### **Diminishing notional capital**

**49.—(1)** Where an applicant is treated as possessing capital under regulation 48(1) (notional capital), the amount which the applicant is treated as possessing—

- (a) in the case of a week that is subsequent to—

- (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by the amount determined under paragraph (3);
  - (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
    - (i) that week is a week subsequent to the relevant week; and
    - (ii) that relevant week is a week in which the condition in paragraph (4) is satisfied, is to be reduced by the amount determined under paragraph (4).
- (2) This paragraph applies to a reduction week or part-week where the applicant satisfies the conditions that—
- (a) the applicant is in receipt of council tax reduction; and
  - (b) but for regulation 48(1), the applicant would have received an additional amount of council tax reduction in that week.
- (3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) is equal to the aggregate of—
- (a) the additional amount to which paragraph (2)(b) refers;
  - (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);
  - (c) where the applicant has also claimed income support, the amount of income support to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support Regulations(197) (notional capital);
  - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which the applicant would have been entitled in respect of the whole or part of the reduction week to which paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations(198) (notional capital); and
  - (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which the applicant would have been entitled in respect of the whole or part of reduction week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations(199) (notional capital).
- (4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the applicant would have been entitled to council tax reduction in the relevant week but for regulation 48(1) (notional capital), and in such a case the amount of the reduction is to be equal to the aggregate of—
- (a) the amount of council tax reduction to which the applicant would have been entitled in the relevant week but for regulation 48(1), and for the purposes of this sub-paragraph if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of council tax reduction to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;

(197) Regulation 51(1) was inserted by [S.I. 1990/1776](#) and amended by [S.I. 1997/2197](#) and [2007/719](#).

(198) Regulation 113 was amended by [SI 1996/207](#), [1998/2117](#), [1999/2640](#) and [3156](#), [2000/1978](#) and [3134](#), [2001/1029](#) and [3767](#), [2003/455](#), [2004/2308](#), [2005/2465](#) and [3391](#), [2006/588](#), [2007/719](#), [2008/698](#), [2767](#) and [3157](#), [2009/480](#), [2010/641](#) and [1222](#), and [2011/688](#), [917](#) and [2425](#).

(199) Regulation 115 was amended by [S.I. 2008/2428](#), [2010/641](#) and [2011/1707](#).

- (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the reduction week which includes the last day of the relevant week, the amount which is equal to—
    - (i) in a case where no housing benefit is payable, the amount to which the applicant would have been entitled; or
    - (ii) in any other case, the amount equal to the additional amount of housing benefit to which the applicant would have been entitled, and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of housing benefit to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;
  - (c) if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the benefit week (within the meaning of regulation 2(1) of those Regulations) which includes the last day of the relevant week, the amount to which the applicant would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of the income support to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;
  - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the benefit week (within the meaning of regulation 1(3) of those Regulations) which includes the last day of the relevant week, the amount to which the applicant would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of the income-based jobseeker's allowance to which the applicant would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7; and
  - (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the benefit week (within the meaning of regulation 2(1) of those Regulations) which includes the last day of the relevant week, the amount to which the applicant would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount is to be determined by dividing the amount of the income-related employment and support allowance to which the applicant would have been entitled by the number equal to the number of days in that part-week and multiplying the quotient by 7.
- (5) The amount determined under paragraph (4) is to be re-determined under that paragraph if the applicant makes a further application for council tax reduction and the conditions in paragraph (6) are satisfied, and in such a case—
- (a) paragraph (4)(a) to (e) applies as if for “relevant week” there was substituted “relevant subsequent week”; and
  - (b) subject to paragraph (7), the amount as re-determined has effect from the first week following the relevant subsequent week in question.
- (6) The conditions are that—
- (a) a further application is made 26 or more weeks after the latest of—
    - (i) the date on which the applicant made an application for council tax reduction in respect of which the applicant was first treated as possessing the capital in question under regulation 48(1) (notional capital);

- (ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which the applicant last made an application for council tax reduction which resulted in the weekly amount being re-determined; or
  - (iii) the date on which the applicant last ceased to be entitled to council tax reduction; and
  - (b) the applicant would have been entitled to council tax reduction but for regulation 48(1).
- (7) The amount as re-determined under paragraph (5) is not to have effect if it is less than the amount which applied in that case immediately before the re-determination, and in that case the higher amount continues to have effect.
- (8) In this regulation—
- (a) “part-week”—
    - (i) in paragraph (4)(a) means a period of less than a week during which a person is entitled to council tax reduction;
    - (ii) in paragraph (4)(b) means a period of less than a week for which housing benefit is payable;
    - (iii) in paragraph (4)(c), (d) and (e) means—
      - (aa) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker’s allowance is payable; and
      - (bb) any other period of less than a week for which it is payable;
  - (b) “relevant week” means the reduction week or part-week in which the capital in question of which the applicant has been deprived within the meaning of regulation 48(1)—
    - (i) was first taken into account for the purpose of determining the applicant’s entitlement to council tax reduction; or
    - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining the applicant’s entitlement to council tax reduction on that subsequent occasion and that determination or re-determination resulted in the applicant beginning to receive, or ceasing to receive, council tax reduction,

and where more than one reduction week or part-week is identified by reference to heads (i) and (ii) the later or latest reduction week or, as the case may be, the later or latest part-week; and
  - (c) “relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last application was made.

### **Capital jointly held**

**50.** Except where an applicant possesses capital which is disregarded under regulation 48(5) (notional capital) where an applicant and one or more other persons are beneficially entitled in possession to any capital asset the applicant and the person or those persons are to be treated as if each of them were entitled in possession to the whole beneficial interest in an equal share and the provisions of this chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital possessed by applicant.

### **Calculation of tariff income from capital**

**51.—(1)** Subject to paragraph (2), where the applicant’s capital calculated in accordance with this Part exceeds £6,000 it is to be treated as equivalent to a weekly tariff income of £1 for each complete £250 in excess of—

- (a) £10,000 in the case where the applicant is aged 60 or over or has a partner who is aged 60 or over; and
  - (b) £6,000 in any other case.
- (2) Where any part of the excess is not a complete £250 that part is to be treated as equivalent to a weekly tariff income of £1.

## PART 7

### Students

#### CHAPTER 1

##### General

#### **Interpretation: students**

**52.** In this Part—

“access funds” means—

- (a) grants made under section 68 of the Further and Higher Education Act 1992(**200**) for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980(**201**);
- (c) grants made under article 30 of the Education and Libraries (Northern Ireland) Order 1993(**202**) or grants, loans or other payments made under article 5 of the Further Education (Northern Ireland) Order 1997(**203**), in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- (d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Young People’s Learning Agency for England under sections 61 and 62 of the Apprenticeships, Skills, Children and Learning Act 2009 or the Chief Executive of Skills Funding under sections 100 and 101 of that Act(**204**); or
- (e) Financial Contingency Funds made available by the Welsh Ministers;

“college of further education” means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992;

“contribution” means—

- (a) any contribution in respect of the income of a student or any person which the Scottish Ministers, the Secretary of State or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
- (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education

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(**200**) 1992 c.13.

(**201**) 1980 c.44. Section 74(1) was amended by paragraph 8 of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989 (c.39).

(**202**) 1993/2810.

(**203**) S.I. 1997/1772.

(**204**) 2009 c.22.

authority consider that it is reasonable for the following persons to contribute towards the holder's expenses—

- (i) the holder of the allowance or bursary;
- (ii) the holder's parents;
- (iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if the person was the spouse or civil partner of that parent; or
- (iv) the holder's spouse or civil partner;

“covenant income” means the gross income payable to a full-time student under a deed of covenant by the student's parent;

“education authority” means a government department (including any Minister of the Crown, any part of the Scottish Administration, the National Assembly for Wales, the Northern Ireland Assembly, any Northern Ireland Minister or Northern Ireland junior Minister and any Northern Ireland department), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973([205](#)), a local authority as defined in section 579 of the Education Act 1996([206](#)) (interpretation), an education and library board established under article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a Research Council for the purposes of the Science and Technology Act 1965([207](#)) or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 15 of Schedule 4 or paragraph 55 of Schedule 5 (disregard of financial assistance with regard to education) applies;

“grant income” means—

- (a) any income by way of a grant; or
- (b) any contribution whether or not it is paid;

“last day of the course” means—

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later; and
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—
  - (i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to studying throughout the year or, if the student does not have a grant or loan, where a loan would have been assessed at such a rate had the student had one; or

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([205](#))[1973 c.65](#). Section 123 was substituted by paragraph 92 of Schedule 13 to the Local Government etc. (Scotland) Act [1994 \(c.39\)](#).

([206](#))[1996 c.56](#). Section 579 was relevantly amended by [S.I. 2010/1158](#).

([207](#))[1965 c.4](#).

- (ii) in any other case, the day before the start of the normal summer vacation appropriate to the student's course; and
  - (c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;
- “periods of experience” means periods of work experience which form part of a sandwich course; and
- “standard maintenance grant” means—
- (a) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
  - (b) except where paragraph (a) or (c) applies in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003(**208**) (“the 2003 Regulations”) for that student;
  - (c) except where paragraph (a) applies, in the case of a student residing at that student's parents' home, the amount specified in paragraph 3 of Schedule 2 to the 2003(**209**) Regulations; and
  - (d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations, other than in paragraph 2(2)(a) or (b) of that Schedule.

### Treatment of students

53. These Regulations have effect in relation to students subject to the provisions of this Part.

## CHAPTER 2

### Income

#### Calculation of grant income

- 54.—(1) The amount of a student's grant income to be taken into account is, subject to paragraphs (2) and (3), the whole of that student's grant income.
- (2) There must be excluded from a student's grant income any payment—
- (a) intended to meet tuition fees or examination fees;
  - (b) in respect of any disability of that student;
  - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
  - (d) on account of the student maintaining a home at a place other than that at which the student resides during the course;
  - (e) on account of any other person but only if the person is residing outside of the United Kingdom and there is no applicable amount in respect of the person;
  - (f) intended to meet the cost of books and equipment;

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(**208**) S.I. 2003/1994.

(**209**) Paragraph 2 of Schedule 2 was amended by S.I. 2008/1477.

- (g) intended to meet travel expenses incurred as a result of the student's attendance on the course;
  - (h) intended for the child care costs of a child dependant; or
  - (i) of higher education bursary for care leavers made under Part III of the Children Act 1989.
- (3) Where a student does not have a student loan and is not treated as possessing a student loan, there must be excluded from the student's grant income—
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any costs are incurred.
- (4) There must be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- (5) Subject to paragraphs (6) and (7), a student's grant income is to be apportioned—
- (a) subject to paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study; and
  - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- (6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968(**210**) (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003(**211**) is to be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- (7) In a case where a student is in receipt of a student loan or where the student could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which paragraph (6) does not apply, is to be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- (8) In the case of a student on a sandwich course, any periods of experience within the period of study are to be excluded and the student's grant income is to be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

### **Calculation of covenant income where a contribution is assessed**

**55.—(1)** Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of the student's covenant income to be taken into account for that period and any summer vacation immediately following is the whole amount of the covenant income less, subject to paragraph (3), the amount of the contribution.

**(2)** The weekly amount of the student's covenant is to be determined—

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(**210**) 1968 c.46. Section 63(6) was amended with respect to Scotland by section 20 of the Health and Medicines Act 1988 ([c.49](#)) and S.I. 1968/1699.

(**211**) Part 3 of Schedule 2 was amended by [2005/2083](#), [2006/930](#) and [2008/1477](#).

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and

- (b) by disregarding £5 from the resulting amount.

(3) For the purposes of paragraph (1), the contribution is to be treated as increased by the amount (if any) by which the amount excluded under regulation 54(2)(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure)(212).

#### **Covenant income where no grant income or no contribution is assessed**

**56.**—(1) Where a student is not in receipt of income by way of a grant the amount of the student's covenant income is to be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 54(2)(a) to (e) (calculation of grant income) necessary as a result of the student's attendance on the course is to be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not disregarded, is to be apportioned equally between the weeks of the period of study;
- (c) there is to be disregarded from the amount apportioned the amount which would have been disregarded under regulation 54(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, is to be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 is to be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of the student's covenanted income is to be calculated in accordance with paragraph (1), except that—

- (a) the value of the standard maintenance grant is to be abated by the amount of the grant income less an amount equal to the amount of any sums disregarded under regulation 54(2) (a) to (e); and
- (b) the amount to be disregarded under paragraph (1)(c) is to be abated by an amount equal to the amount of any sums disregarded under regulation 54(2)(f) and (g) and (3).

#### **Relationship with amounts to be disregarded under Schedule 4**

**57.** No part of a student's covenant income or grant income is to be disregarded under paragraph 18 of Schedule 4.

#### **Other amounts to be disregarded**

**58.** For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with regulation 59 (treatment of student loans), any amount intended for any expenditure specified in regulation 54(2) (calculation of grant income), necessary as a result of the student's attendance on the course is to be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 54(2) or (3), 55(3), 56(1)(a) or (c) or 59(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

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(212)Paragraph 7(2) of Schedule 2 was amended by S.I. 2008/1477.

## Treatment of student loans

**59.—(1)** A student loan is to be treated as income in accordance with the provisions of this regulation.

(2) Subject to paragraph (3), when calculating the weekly amount of the loan to be taken into account as income—

- (a) in respect of a course that is of a single academic year's duration or less, a loan payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
  - (i) except in a case where head (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of the single academic year; and
  - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course,
 and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year and ending with the reduction week, the last day of which coincides with or immediately precedes, the last day of that academic year but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of, as the case may be, the Scottish Ministers, the Secretary of State, the Welsh Ministers or the Department for Employment and Learning in Northern Ireland, the longest of any vacation is taken;
- (c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—
  - (i) except in a case where head (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year; and
  - (ii) where the final academic year starts on 1st September, the reduction week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term,
 and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course; and
- (d) in any other case, the loan is to be apportioned equally between the weeks in the period beginning with the earlier of—
  - (i) the first day of the first reduction week in September; or
  - (ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of June.

(3) When calculating the weekly amount of the loan to be taken into account as income £10 is to be disregarded from the weekly amounts apportioned in accordance with paragraph (2).

(4) A student is to be treated as possessing a student loan in respect of an academic year where—

- (a) a student loan has been made to the student in respect of that year; or
- (b) the student could acquire a student loan in respect of that year by taking reasonable steps to do so.

(5) Where a student is treated as possessing a student loan under paragraph (4), the amount of the student loan to be taken into account as income is, subject to paragraph (6)—

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—
  - (i) the maximum student loan the student is able to acquire in respect of that year by taking reasonable steps to do so; and
  - (ii) any contribution whether or not it has been paid to the student; and
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
  - (i) the student took all reasonable steps to obtain the maximum student loan able to be acquired in respect of that year; and
  - (ii) no deduction in that loan was made by virtue of the application of a means test.

(6) There is to be deducted from the amount of income taken into account under paragraph (5), whether or not any costs are incurred—

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the cost of books and equipment.

(7) For the purposes of this regulation “quarter” in relation to an academic year means a period in that year—

- (a) beginning on 1st January and ending on 31st March;
- (b) beginning on 1st April and ending on 30th June;
- (c) beginning on 1st July and ending on 31st August; or
- (d) beginning on 1st September and ending on 31st December.

### Treatment of fee loans

**60.** A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under section 73(f) of the Education (Scotland) Act 1980(213), section 22 of the Teaching and Higher Education Act 1998 or article 3 of the Education (Student Support) (Northern Ireland) Order 1998 is to be disregarded as income.

### Treatment of payments from access funds

**61.—(1)** This regulation applies to payments from access funds that are not payments to which regulation 64(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which paragraph (3) applies, is to be disregarded as income.

(3) Subject to paragraph (4) and paragraph 40 of Schedule 4, any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of the applicant’s family and any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, are to be disregarded as income to the extent of £20 per week.

(4) Any payment from access funds is to be disregarded as income where that payment is made—

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(213)Section 73(f) was substituted by section 3 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

- (a) on or after 1st September or the first day of the course of study, whichever occurs first, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of the person becoming a student.

#### **Disregard of contribution**

**62.** Where the applicant or any partner of the applicant is a student and, for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution is to be disregarded for the purposes of assessing the other partner's income.

#### **Further disregard of student's income**

**63.** Where any part of a student's income has already been taken into account for the purposes of assessing the student's entitlement to a grant or student loan, the amount taken into account must be disregarded in assessing the student's income.

#### **Income treated as capital**

**64.—(1)** Any amount by way of a refund of tax deducted from a student's covenant income is to be treated as capital.

(2) Any amount paid from access funds as a single lump sum is to be treated as capital.

(3) Any amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or a member of the applicant's is liable, is to be disregarded as capital but only for a period of 52 weeks from the date of the payment.

#### **Disregard of changes occurring during summer vacation**

**65.** In calculating a student's income any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course is to be disregarded if that vacation does not form part of the student's period of study from the date on which the change occurred to the end of that vacation.

## PART 8

### Amount of reduction

#### **Maximum council tax reduction**

**66.—(1)** Subject to paragraphs (2) and (3), the amount of a person's maximum council tax reduction in respect of a day for which the person is liable to pay council tax is 100 per cent of the amount A/B where—

- (a) A is the amount set by the relevant authority as the council tax for the relevant financial year in respect of the dwelling in which the person is a resident and for which the person is liable, subject to—
  - (i) any discount which may be appropriate to that dwelling; and

- (ii) any reduction in liability for council tax under regulations made under section 80 of the Act or under a scheme established under section 80A of the Act, other than a reduction under these Regulations; and
- (b) B is the number of days in that financial year,

less any deductions in respect of non-dependants which fall to be made under regulation 67 (non-dependant deductions).

(2) Subject to paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which the person is resident with one or more other persons, but excepting any person residing with the applicant who is a student to whom regulation 20(2) (persons not entitled to council tax reduction: students) applies, in determining the maximum council tax reduction in the person's case in accordance with paragraph (1) amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only the applicant's partner, paragraph (2) does not apply.

### Non-dependant deductions

67.—(1) Subject to the following provisions of this regulation, the non-dependant deductions in respect of a day referred to in regulation 66 (maximum council tax reduction) are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £9.90 x 1/7; and
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.30 x 1/7.

(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a) applies, where it is shown to the relevant authority that the person's normal gross weekly income is—

- (a) less than £183.00, the deduction to be made is that specified in paragraph (1)(b);
- (b) not less than £183.00 but less than £316.00, the deduction to be made is £6.55 x 1/7; or
- (c) not less than £316.00 but less than £394.00, the deduction to be made is £8.25 x 1/7.

(3) Only one deduction is to be made in respect of a couple or, as the case may be, members of a polygamous marriage and where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.

(4) In applying the provisions of paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's, joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not liable for council tax in respect of that dwelling on that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling on that day otherwise than by virtue of section 77 or 77A of the Act<sup>(214)</sup> (liability of spouses and civil partners); and
- (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons,

<sup>(214)</sup>Section 77 was amended by section 4 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 ([asp 6](#)) and [S.I. 2005/623](#). Section 77A was added by section 133 of the Civil Partnership Act 2004 ([c.33](#)).

the deduction in respect of that non-dependant is to be apportioned equally between those liable persons.

(6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or the applicant's partner is—

- (a) blind or treated as blind by virtue of paragraph 10 of Schedule 1 (additional condition for the disability premium); or
- (b) receiving in respect of the applicant or the applicant's partner as the case may be either—
  - (i) attendance allowance;
  - (ii) the care component of the disability living allowance; or
  - (iii) the daily living component of personal independence payment.

(7) No deduction is to be made in respect of a non-dependant if—

- (a) although residing with the applicant, it appears to the relevant authority that the non-dependant's normal home is elsewhere; or
- (b) the non-dependant is in receipt of a training allowance paid in connection with youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) the non-dependant is a full-time student; or
- (d) the non-dependant is not residing with the applicant because the non-dependant has been a patient for a period in excess of 52 weeks, and for these purposes where a person has been a patient for two or more distinct periods separated by one or more intervals, each not exceeding 28 days, the person is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(8) No deduction is to be made in respect of a non-dependant—

- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
- (b) to whom Schedule 1 to the Act<sup>(215)</sup> applies (persons disregarded for purposes of discount) but this sub-paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

(9) In the application of paragraph (2) there is to be disregarded from the person's weekly gross income—

- (a) any attendance allowance, disability living allowance or personal independence payment received by the person;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund which, had the person's income fallen to be calculated under regulation 39 (calculation of income other than earnings), would have been disregarded under paragraph 27 of Schedule 4 (income in kind); and
- (c) any payment which, had the person's income fallen to be calculated under regulation 39, would have been disregarded under paragraph 41 of Schedule 4 (payments made under certain trusts and certain other payments).

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<sup>(215)</sup>Schedule 1 was amended by paragraph 152 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 ([c.6](#)), paragraph 18 of schedule 3 to the Regulation of Care (Scotland) Act 2001 ([asp 8](#)), paragraph 152 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 ([c.43](#)), paragraph 123 of Schedule 16 and Schedule 17 to the Armed Forces Act 2006 ([c.52](#)) and [S.S.I. 2005/465](#).

## Extended council tax reduction

68.—(1) Subject to regulation 71 (extended council tax reduction: movers), a person who is entitled to council tax reduction by virtue of the general conditions of entitlement is entitled to extended council tax reduction where—

- (a) the person or any partner of the person was entitled to a qualifying income-related benefit;
  - (b) entitlement to a qualifying income-related benefit ceased because the person or the person's partner—
    - (i) commenced employment as an employed or self-employed earner;
    - (ii) increased their earnings from employment as an employed or self-employed earner; or
    - (iii) increased the number of hours worked in employment as an employed or self-employed earner,
- and that employment is, or the increased earnings or increased number of hours are, expected to last 5 weeks or more; and
- (c) the person or the person's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

(2) For the purpose of paragraph (1)(c), a person or any partner of the person is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than 5 weeks in respect of which the person or the person's partner was not entitled to any of those benefits because the person or the person's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

(3) For the purposes of this regulation, where a person or any partner of the person is entitled to and in receipt of joint-claim jobseeker's allowance the person or the person's partner, as the case may be, is to be treated as being entitled to and in receipt of jobseeker's allowance.

(4) For the purposes of this regulation, a person is entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the person ceased to be entitled to council tax reduction on vacating the dwelling in which the person was resident;
- (b) the day on which the person vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in paragraph (1)(b).

(5) This regulation does not apply where, on the day before a person's entitlement to income support ceased, regulation 6(5) of the Income Support Regulations(216) (remunerative work: housing costs) applied to that person.

## Duration of period of entitlement to extended council tax reduction

69.—(1) Subject to regulation 71 (extended council tax reduction: movers), where a person is entitled to extended council tax reduction, the period of entitlement starts on the first day of the reduction week immediately following the reduction week in which the person, or any partner of the person, ceased to be entitled to a qualifying income-related benefit.

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(216) Regulation 6(5) was added by S.I. 2001/488 and amended by S.I. 2007/3183 and 2008/1554.

- (2) For the purpose of paragraph (1), a person or a person's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The period of entitlement to extended council tax reduction ends on the earliest of—
- (a) the end of a period of 4 weeks of that entitlement; or
  - (b) the first day on which the person who is entitled to extended council tax reduction has no liability for council tax.

#### **Amount of extended council tax reduction**

- 70.**—(1) For any week during the period of entitlement to extended council tax reduction the amount of council tax reduction to which the person is entitled is the higher of—
- (a) the amount of council tax reduction to which the person was entitled in the last reduction week before the person or the person's partner ceased to be entitled to a qualifying income-related benefit;
  - (b) the amount of council tax reduction to which the person would be entitled for any reduction week during the period of entitlement to extended council tax reduction if regulation 68 (extended council tax reduction) did not apply to the person; or
  - (c) the amount of council tax reduction to which the person's partner would be entitled if regulation 68 did not apply to the person.
- (2) Paragraph (1) does not apply in the case of a mover.
- (3) Where a person is entitled to extended council tax reduction under this regulation and the person's partner applies for council tax reduction, that partner is not entitled to council tax reduction during the other partner's period of entitlement to extended council tax reduction.

#### **Extended council tax reduction: movers**

- 71.**—(1) Where a mover who is entitled to extended council tax reduction in respect of liability to pay council tax to the first authority moves to reside in a dwelling in the area of the second authority that mover is entitled to extended council tax reduction in respect of any liability to pay council tax to the second authority of an amount calculated in accordance with paragraph (2).
- (2) The amount of extended council tax reduction to which the mover is entitled is the amount of council tax reduction to which the mover was entitled for the last reduction week before the mover ceased to be entitled to a qualifying income-related benefit.
- (3) The period of entitlement to extended council tax reduction in respect of liability to pay council tax to the first authority ends on the earliest of—
- (a) the first Sunday after the move; or
  - (b) the day on which the mover's liability to pay council tax to the first authority ends.
- (4) The period of entitlement to extended council tax reduction granted by virtue of paragraph (1)
- 
- (a) starts on the Monday following the day of the move; and
  - (b) ends on the expiry of the period of entitlement to extended council tax reduction which would have applied had the mover not moved from the area of the first authority.

#### **Relationship between council tax reduction and extended council tax reduction**

- 72.**—(1) Where a person's entitlement to council tax reduction would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in

regulation 68(1)(b) (extended council tax reduction), that eligibility will not cease until the end of the period of eligibility for extended council tax reduction.

(2) Part 9 (effective date) does not apply to any extended council tax reduction granted in accordance with regulation 70(1)(a) (amount of extended council tax reduction) or 71(2) (extended council tax reduction: movers).

#### **Extended council tax reduction (qualifying contributory benefits)**

**73.**—(1) A person who is entitled to council tax reduction by virtue of the general conditions of entitlement is entitled to extended council tax reduction (qualifying contributory benefits) where—

- (a) the person or any partner of the person was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the person or the person's partner—
  - (i) commenced employment as an employed or self-employed earner;
  - (ii) had an increase in earnings from such employment; or
  - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last 5 weeks or more;
- (c) the person or the person's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the person or the person's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the person or the person's partner was entitled to a qualifying contributory benefit.

(2) For the purposes of this regulation, a person is entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the person ceased to be entitled to council tax reduction because the person vacated the dwelling in which the person was resident;
- (b) the day on which the person vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph (1)(b).

#### **Duration of extended council tax reduction (qualifying contributory benefits)**

**74.**—(1) Subject to regulation 76 (extended council tax reduction (qualifying contributory benefits: movers)), where a person is entitled to extended council tax reduction (qualifying contributory benefits), the period of entitlement starts on the first day of the reduction week immediately following the reduction week in which the person or the person's partner ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of paragraph (1), a person or a person's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The period of entitlement to council tax reduction (qualifying contributory benefits) ends on the earliest of—

- (a) the end of a period of 4 weeks of entitlement; or

- 
- (b) the day on which the entitled person's liability for council tax ends.

**Amount of extended council tax reduction (qualifying contributory benefits)**

**75.**—(1) For any week during the period of entitlement to council tax reduction (qualifying contributory benefits) the amount of council tax reduction (qualifying contributory benefits) is the higher of—

- (a) the amount of council tax reduction to which the person was entitled in the last reduction week before the person or the person's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of council tax reduction to which the person would be entitled for any reduction week during the extended payment period, if regulation 73 (extended council tax reduction (qualifying contributory benefits)) did not apply to the person; or
- (c) the amount of council tax reduction to which the person's partner would be entitled if regulation 74 (duration of extended council tax reduction (qualifying contributory benefits)) did not apply to the person.

(2) Paragraph (1) does not apply in the case of a mover.

(3) Where a person is entitled to extended council tax reduction (qualifying contributory benefits) under this regulation and the person's partner applies for council tax reduction, that partner is not entitled to council tax reduction during the person's period of entitlement to extended council tax reduction (qualifying contributory benefits).

**Extended council tax reduction (qualifying contributory benefits): movers**

**76.**—(1) Where a mover who is entitled to extended council tax reduction (qualifying contributory benefits) in respect of liability to pay council tax to the first authority moves to reside in a dwelling in the area of the second authority that mover is entitled to extended council tax reduction in respect of any liability to pay council tax to the second authority of an amount calculated in accordance with paragraph (2).

(2) The amount of extended council tax reduction (qualifying contributory benefit) to which the mover is entitled is the amount of council tax reduction to which the mover was entitled for the last reduction week before the mover ceased to be entitled to a qualifying contributory benefit.

(3) The period of entitlement to extended council tax reduction (qualifying contributory benefit) in respect of liability to pay council tax to the first authority ends on the earliest of—

- (a) the first Sunday after the move; or
  - (b) the day on which the mover's liability to pay council tax to the first authority ends.
- (4) The period of entitlement to extended council tax reduction (qualifying contributory benefits) granted by virtue of paragraph (1)—
- (a) starts on the Monday following the day of the move; and
  - (b) ends on the expiry of the period of extended council tax reduction (qualifying contributory benefits) which would have applied had the mover not moved from the area of the first authority.

**Relationship between council tax reduction and extended council tax reduction (qualifying contributory benefits)**

**77.**—(1) Where a person's entitlement to council tax reduction would have ended when the person ceased to be entitled to a qualifying contributory benefit in the circumstances listed in

regulation 68(1)(b), that entitlement does not cease until the end of the period of entitlement to extended council tax reduction.

(2) Part 9 (effective date) does not apply to any extended council tax reduction (qualifying contributory benefits) granted in accordance with regulation 70(1)(a) (amount of extended council tax reduction) or 71(2) (amount of extended council tax reduction: movers).

### **Alternative maximum council tax reduction**

**78.**—(1) Subject to paragraphs (2) and (3), the alternative maximum council tax reduction where the conditions set out in regulation 14(3) and (6) (conditions of entitlement to council tax reduction) are fulfilled is the amount determined in accordance with Schedule 2.

(2) Subject to paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which the applicant is resident with one or more other persons, in determining the alternative maximum council tax reduction in the applicant's case the amount determined in accordance with Schedule 2 must be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only the applicant's partner paragraph (2) does not apply.

### **Residents of a dwelling to whom regulation 14(6) does not apply**

**79.** Regulation 14(6) (conditions of entitlement to council tax reduction: alternative maximum council tax reduction) does not apply in respect of—

- (a) a person who is liable for council tax solely in consequence of the provisions of section 77 or 77A of the Act (spouse's or civil partner's joint and several liability for tax);
- (b) a person who is residing with a couple or with the members of a polygamous marriage where the applicant for council tax reduction is a member of that couple or of that marriage and—
  - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the Act, falls to be disregarded for the purposes of discount; or
  - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the Act, fall to be disregarded for the purposes of discount;
- (c) a person who jointly with the applicant falls within the same sub-paragraph of section 75(2) (a) to (e) of the Act<sup>(217)</sup> (persons liable to pay council tax) as applies in the case of the applicant; or
- (d) a person who is residing with two or more persons both or all of whom fall within the same sub-paragraph of section 75(2)(a) to (e) of the Act (persons liable to pay council tax) and two or more of those persons are not persons who, in accordance with Schedule 1 to the Act, fall to be disregarded for the purposes of discount.

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<sup>(217)</sup>Section 6(2) was amended by S.I. 1997/74. Section 75(2) was amended by paragraph 19 of schedule 10 to the Housing (Scotland) Act 2001 (asp 10).

## PART 9

### Effective date

#### Date on which entitlement is to begin

**80.**—(1) Subject to paragraph (2), where a person—

- (a) makes, or is treated as making, an application; and
- (b) fulfils the conditions of entitlement to council tax reduction in regulation 14,

that person is entitled to council tax reduction from the first Monday after the date on which the application is made or treated as made.

(2) Where, a person—

- (a) becomes liable for the first time for council tax in respect of a dwelling in which the person resides;
- (b) makes, or is treated as making, an application in the reduction week in which the person first becomes liable for council tax in respect of that dwelling; and
- (c) fulfils the conditions of entitlement to council tax reduction in regulation 14,

that person is entitled to council tax reduction from the day on which the person first becomes liable for council tax.

#### Date on which a change of circumstances is to take effect

**81.**—(1) Subject to the provisions of this regulation, a change of circumstances which affects entitlement to council tax reduction is to take effect for the purpose of calculating entitlement to council tax reduction from the first day of the reduction week the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

(2) Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it takes effect for the purpose of calculating entitlement to council tax reduction from the day on which it actually occurs.

(3) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 80 of the Act<sup>(218)</sup> (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 79<sup>(219)</sup> of that Act, it takes effect for the purpose of calculating entitlement to council tax reduction from the day on which the change in amount has effect.

(4) Where the change of circumstances is an amendment to these Regulations, it takes effect for the purpose of calculating entitlement to council tax reduction from the date on which the amendment to these Regulations comes into force.

(5) Where the change of circumstances is the applicant's acquisition of a partner, it takes effect for the purpose of calculating entitlement to council tax reduction on the day on which the acquisition takes place.

(6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect for the purpose of calculating entitlement to council tax reduction on the day the death or separation occurred.

<sup>(218)</sup>Section 13 was amended by paragraph 42 of Schedule 7 to the Local Government Act 2003 ([c.26](#)). Section 80 was amended by paragraph 176 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 ([c.39](#)).

<sup>(219)</sup>Section 11 was amended by paragraph 42 of Schedule 7 and Schedule 8 to the Local Government Act 2003 ([c.26](#)). Section 12 was substituted by section 75 of the Local Government Act 2003 ([c.26](#)). Section 79 was amended by S.I. 2005/51.

(7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect for the purpose of calculating entitlement to council tax reduction in different reduction weeks in accordance with paragraphs (1) to (6) they take effect from the day to which the appropriate paragraph from (2) to (6) refers, or, where more than one day is concerned, from the earlier day.

(8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the 1992 Act, is paid in respect of a past period and there was no entitlement to income of that amount during that period, it takes effect for the purpose of calculating entitlement to council tax reduction from the first day on which the income, had it been paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.

(9) Without prejudice to paragraph (8), where the change of circumstances is the payment of income or arrears of income in respect of a past period, it takes effect for the purpose of calculating entitlement to council tax reduction from the first day on which the income, had it been timeously paid in that period at intervals appropriate to that income, would have been taken into account for the purposes of these Regulations.

## PART 10

### Applications

#### **Who may apply**

**82.** In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should apply or, in default of agreement, by whichever one of them the relevant authority determines is to make the application.

#### **Written applications**

**83.—(1)** Subject to regulation 84 (telephone applications), an application must be sent to the designated office in writing and—

- (a) made on a properly completed form approved for the purposes by the relevant authority; or
- (b) in such written form as the relevant authority accepts as sufficient in the circumstances of any particular case or class of cases having regard to the sufficiency of the written information and evidence.

(2) Where an application is not made in the form described in paragraph (1)(a) or (b) it is defective.

(3) Where an application is defective because—

- (a) it was made on the form approved for the purpose but that form is not accepted by the relevant authority as being properly completed the relevant authority may request the applicant to complete the defective application; or
- (b) it was made in writing but not on the form approved for the purpose and the relevant authority does not accept the application as being in a written form which is sufficient in the circumstances of the case, having regard to the sufficiency of the written information and evidence, the relevant authority may supply the applicant with the approved form or request further information or evidence.

(4) A defective application is to be treated as if it had been validly made in the first instance if, in any particular case, one of the conditions specified in paragraph (5) is satisfied.

(5) The conditions are that—

- (a) where paragraph (3)(a) (incomplete form) applies, the relevant authority receives the properly completed application, the information requested to complete it or the evidence within one month of the authority's request, or any longer period the relevant authority considers reasonable; or
  - (b) where paragraph (3)(b) (application not on approved form or further information requested by relevant authority) applies—
    - (i) the approved form sent to the applicant is received by the relevant authority properly completed within one month of it having been sent to the applicant, or any longer period the relevant authority considers reasonable; or
    - (ii) the applicant supplies whatever information or evidence was requested under paragraph (3) within one month of the request, or any longer period the relevant authority considers reasonable.
- (6) An application made on an approved form is for the purposes of these Regulations properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

### **Telephone applications**

**84.**—(1) Where the relevant authority has published a telephone number for the purpose of receiving applications for council tax reduction, an application may be made by telephone to that telephone number.

(2) The relevant authority may determine that an application made by telephone is not a valid application unless the applicant approves a written statement of the person's circumstances, provided by the relevant authority.

(3) An application made by telephone in accordance with paragraph (1) is defective unless the relevant authority is provided with all the information requested by it during the telephone call.

(4) Where an application made by telephone in accordance with paragraph (1) is defective, the applicant must be given an opportunity to correct the defect.

(5) If the applicant corrects the defect referred to in paragraph (4) within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application is to be treated as if it had been validly made in the first instance.

(6) If the person does not correct the defect within one month, or any longer period the relevant authority considers reasonable, of the date the authority last drew attention to the defect, the application may be treated as if it had not been defective if the relevant authority considers that it has sufficient information to determine the application.

### **Date on which an application is made**

**85.**—(1) Subject to paragraph (3) and regulation 5(9) (occupation of a dwelling as a home) the date on which an application is made is—

- (a) where an award of income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance has been made to the applicant or the applicant's partner and the application for council tax reduction is made within one month of the date on which the claim for that income support, universal credit jobseeker's allowance or employment and support allowance was received at the appropriate DWP office, the first day of entitlement to that income support, universal credit, jobseeker's allowance or employment and support allowance arising from that claim;

- (b) where an applicant or the applicant's partner is a person on income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance and the applicant becomes liable for the first time to pay council tax in respect of the dwelling which the applicant occupies as a home, where the application is received by the relevant authority within one month of the date on which the applicant first became liable to pay council tax, the date on which the applicant first became so liable;
- (c) where the applicant is the former partner of a person who was, at the date of that partner's death or the partners' separation, entitled to council tax reduction and where the applicant makes an application for council tax reduction within one month of the date of the death or the separation, that date;
- (d) except where sub-paragraph (a), (b) or (c) is satisfied, in a case where a properly completed application is received within one month, or any longer period the relevant authority considers reasonable, of the date on which—
  - (i) an application form was issued to the applicant following the applicant first notifying, by whatever means, the relevant authority of an intention to make an application; or
  - (ii) the applicant notifies, by whatever means, the relevant authority of an intention to make an application by telephone in accordance with regulation 84 (telephone applications),
- the date of first notification; and
- (e) in any other case, the date on which the application is received by the relevant authority.

(2) For the purpose of paragraph (1)(a), a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day of that award and on which the person would, but for regulations made under—

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act (waiting days); or
- (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act (waiting days),

have been entitled to that allowance.

(3) Except in the case of an application made by a person living abroad, where a person has not become liable for council tax to a relevant authority but it is anticipated that the person will become liable within the period of 8 weeks, the person may apply for council tax reduction at any time in that period and, provided that liability arises within that 8 week period, the relevant authority is to treat the application as having been made on the day on which the liability for council tax arises.

(4) Where a relevant authority has not set or imposed its council tax by the beginning of the financial year, if an application for council tax reduction is properly made or treated as made and—

- (a) the date on which the application is made or treated as made is in the period from 1st April of the current year and ending one month after the date on which the authority sets or imposes the tax; and
- (b) if the tax had been determined, the applicant would have been entitled to council tax reduction either from—
  - (i) the reduction week in which 1st April of the current year fell; or
  - (ii) a reduction week falling after the date specified in head (i) but before the application was made,

the relevant authority must treat the application as made in the reduction week immediately preceding the reduction week in which such entitlement would have commenced.

(5) Except in the case of an application made by a person living abroad, where the applicant is not entitled to council tax reduction in the reduction week immediately following the date of the application but the relevant authority is of the opinion that unless there is a change of circumstances the applicant will be entitled to council tax reduction for a period beginning not later than the thirteenth reduction week following the date on which the application is made, the relevant authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and grant entitlement to council tax reduction accordingly.

(6) In the case of a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, paragraph (5) applies as if for the reference to the thirteenth reduction week, there was substituted a reference to the seventeenth reduction week.

(7) Where an applicant ("C")—

- (a) makes an application which includes (or which C subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date when C made the application (or subsequently requested that the application should include a past period), C had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with paragraph (8).

(8) The date referred to in paragraph (7) is the latest of—

- (a) the first day from which C had continuous good cause;
- (b) the day 6 months before the date the application was made; or
- (c) the day 6 months before the date when C requested that the application should include a past period.

(9) In this regulation "appropriate DWP office" means an office of the Department for Work and Pensions dealing with state pension credit or claim office which is normally open to the public for the receipt of claims for income support, a jobseeker's allowance or an employment and support allowance.

## **Evidence and information**

**86.—(1)** Subject to paragraphs (2) and (3) an applicant must furnish any certificates, documents, information and evidence in connection with an application for council tax reduction or existing entitlement to council tax reduction as may reasonably be required by the relevant authority in order to determine that person's entitlement to, or continuing entitlement to, council tax reduction and must do so within one month of the authority requiring the applicant to do so, or any longer period the authority considers reasonable.

(2) Nothing in this regulation requires a person to furnish any certificates, documents, information or evidence relating to a payment to which paragraph (3) applies.

(3) This paragraph applies to—

- (a) a payment which is—
  - (i) disregarded under paragraph 27 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings – income in kind) or paragraph 38 of Schedule 5 (capital to be disregarded - certain payments in kind);
  - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

- (b) a payment which is disregarded under paragraph 41 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings: payments made under certain trusts and certain other payments) or under paragraph 29 of Schedule 5 (capital to be disregarded - payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006); and
  - (c) a payment which is disregarded under regulation 67(9)(b) or (c) (non-dependant deductions) or paragraph 2(b) or (c) of Schedule 2 (amount of alternative maximum council tax reduction: second adult's gross income), other than a payment under the Independent Living Fund (2006).
- (4) Where a request is made under paragraph (1) the relevant authority must—
- (a) inform the applicant of the duty under regulation 89 to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under regulation 89, indicate to the applicant, either orally or by notice or by reference to some other document available to that applicant, on application and without charge, the kind of changes of circumstances which are to be notified.
- (5) Where an applicant or any partner of that applicant has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, the applicant must, where the relevant authority so requires, furnish the following information—
- (a) the name and address of the pension fund holder; and
  - (b) any other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.
- (6) In this regulation “pension fund holder” means the trustees, managers or scheme administrators, as the case may be, of the scheme concerned.

### **Amendment of applications**

**87.—(1)** Subject to paragraph (2), at any time before a relevant authority has made a determination on an application the applicant may amend the application by notice in writing sent to the designated office.

(2) Where an application is made by telephone in accordance with regulation 84 (telephone applications) an amendment may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any application amended in accordance with paragraph (1) or (2) is to be treated as if it had been in its amended state when it was first made.

### **Withdrawal of applications**

**88.—(1)** An applicant may withdraw the application at any time by notice in writing delivered or sent to the designated office before the relevant authority has determined the application.

(2) Where the application was made by telephone in accordance with regulation 84, the withdrawal may be made by telephone to the telephone number specified by the relevant authority for the purpose of that regulation.

(3) Any notice of withdrawal given in accordance with paragraph (1) or (2) has effect when it is received by the relevant authority.

## PART 11

### Notification of changes of circumstances

#### Duty to notify changes of circumstances

**89.**—(1) Subject to paragraphs (3) and (4) and regulation 90 (alternative means of notifying changes of circumstances), if at any time between the making of an application and it being determined or during a period of entitlement to council tax reduction, there is a change of circumstances which an applicant might reasonably be expected to know might affect entitlement to council tax reduction that applicant must notify that change of circumstances by giving notice to the relevant authority—

- (a) in writing; or
- (b) by telephone—
  - (i) where the relevant authority has published a telephone number for that purpose or for the purposes of regulation 84 (telephone applications), unless the authority determines that in any particular case, or class of case, notification of a change of circumstances may not be given by telephone; or
  - (ii) in any case, or class of case, where the relevant authority determines that notice of a change of circumstances may be given by telephone; or
- (c) by any other means the relevant authority agrees to in any particular case.

(2) Subject to paragraph (3), the duty imposed by paragraph (1) does not extend to notifying changes—

- (a) in the amount of council tax payable to the relevant authority;
- (b) in the age of the applicant or of any member of the applicant's family;
- (c) to these Regulations; or
- (d) in the case of an applicant who has an award of income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance, in circumstances which affect the amount of the award but not the amount of council tax reduction to which the applicant is or would be entitled, other than the cessation of that entitlement to income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance.

(3) Notwithstanding paragraph (2)(b) or (d) an applicant is required by paragraph (1) to notify the relevant authority of any change in the composition of the applicant's family arising from the fact that a person who was a member of the family is now no longer a member of the family because that person ceased to be a child or young person.

(4) Where the amount of an council tax reduction is the alternative maximum council tax reduction applicable to the applicant calculated in accordance with regulation 78 (alternative maximum council tax reduction), the applicant is under a duty to give written notice to the relevant authority of changes which occur in the number of adults in the dwelling or in their total gross incomes which might reasonably be expected to change the applicant's entitlement to council tax reduction and where any of those adults ceases to be in receipt of state pension credit, income support, universal credit, an income-based jobseeker's allowance or an income-related employment and support allowance the date when this occurs.

#### Alternative means of notifying changes of circumstances

**90.** Where a change of circumstances described in regulation 89(1) (duty to notify changes of circumstances) is a birth or death the relevant authority may determine for a particular class of case

that the duty in that regulation to notify a change in circumstances may be discharged by personal attendance at an office specified by that authority.

## PART 12

### Electronic communications

#### Sending documents by electronic communication

**91.—(1)** For the purpose of these Regulations, an applicant may send a document by electronic communication—

- (a) in a form approved by the relevant authority for the purposes of this regulation;
- (b) to an address notified by the relevant authority for the purpose of this regulation; and
- (c) by the method set out in paragraph (4).

**(2)** An applicant sending a document to a relevant authority by electronic communications is taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

**(3)** Deemed agreement referred to in paragraph (2) subsists until the applicant gives notice to revoke the agreement, and the notice takes effect from the date specified in it, being a date not less than 7 working days after the date on which the notice is given.

**(4)** An electronic communication must be—

- (a) capable of being accessed by the recipient;
- (b) legible in all other material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

**(5)** Unless the contrary is proved a document sent by the method specified in paragraph (3) is, for the purposes of any legal proceedings, to be regarded as having been—

- (a) delivered where the document has been delivered to or by the relevant authority and the delivery of the document has been recorded on an official computer system; and
- (b) received at the time and date of receipt recorded in an official computer system.

**(6)** In this regulation—

“address” includes any number or address used for the purpose of electronic communications or storage;

“document” includes an application, notice, certificate, information and evidence;

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(**220**);

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“official computer system” means a computer system maintained by or on behalf of the relevant authority for the sending, receiving, processing or storing of an application.

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(**220**)[2000 c.7](#). Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act [2003 \(c.21\)](#).

## PART 13

### Consequential and transitional provisions

#### **Transitional provision**

**92.**—(1) A person described in paragraph (2) is deemed to have made an application for council tax reduction on 1st April 2013.

(2) A person referred to in paragraph (1) is a person—

- (a) who is entitled to council tax benefit on 31st March 2013;
- (b) who made an application for council tax benefit which is not determined before 1st April 2013;
- (c) whose entitlement to council tax benefit is wholly or partly suspended immediately before 1st April 2013;
- (d) other than a person described in sub-paragraphs (a) or (c), who has appealed against a decision of the First-tier Tribunal, the Upper Tribunal or a court in relation to a claim for council tax benefit and whose appeal is pending immediately before 1st April 2013.

(3) For the purpose of paragraph (2)(d) an appeal against a decision relating to a claim for council tax benefit is pending if—

- (a) an appeal against the decision has been brought but not determined;
- (b) an application for permission to appeal against the decision has been made but not determined; or
- (c) the time within which—
  - (i) an application for permission to appeal may be made; or
  - (ii) an appeal against the decision may be brought,

has not expired and one of the circumstances prescribed in regulation 11(3) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 apply.

#### **Savings provision**

**93.** Schedule 6 has effect.

#### **Consequential amendments**

**94.** The amendments in Schedule 7 have effect.

St Andrew's House,  
Edinburgh  
7th November 2012

*JOHN SWINNEY*  
A member of the Scottish Government

## SCHEDULE 1

Regulations 21 and 22

## Applicable amount

## PART 1

## Personal Allowances

- 1.** The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of regulations 21(a) (applicable amount) and 22(a) and (b) (applicable amount: polygamous marriages)—

<i>Column (1)</i>	<i>Column (2)</i>
<i>Person or couple</i>	<i>Amount</i>
(1) A single applicant who—	
(a) is entitled to main phase employment and support allowance;	£71.00
(b) is aged not less than 25;	£71.00
(c) is aged not less than 18 but less than 25.	£56.25
(2) A lone parent.	£71.00
(3) A couple.	£105.95

- 2.** For the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if—

- (a) paragraph 15 (persons in receipt of concessionary payments) is satisfied in relation to the applicant; or
- (b) the applicant is entitled to a converted employment and support allowance.

- 3.** The amounts specified in column (2) below in respect of each person specified in column (1) are, for the relevant period specified in column (1), the amounts specified for the purposes of regulations 21(b) and 22(c)—

<i>Column (1)</i>	<i>Column (2)</i>
<i>Child or Young Person</i>	<i>Amount</i>
A person in respect of the period—	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£64.99
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£64.99

## PART 2

### Family Premium

**4.—(1)** The amount for the purposes of regulations 21(c) and 22(d) in respect of a family of which at least one member is a child or young person is—

- (a) where the applicant is a lone parent to whom sub-paragraph (2) applies, £22.20;
- (b) in any other case, £17.40.

**(2)** The amount in sub-paragraph (1)(a) is applicable to a lone parent—

- (a) who was entitled to council tax benefit under the Council Tax Benefit (General) Regulations 1992 (“the 1992 Regulations”) on 5th April 1998 and whose applicable amount on that date for the purpose of those Regulations included the amount applicable under paragraph 3(3)(a) of Schedule 1 to those Regulations as in force on that date; or
- (b) on becoming entitled to council tax reduction where that lone parent—
  - (i) had been treated as entitled to council tax reduction in accordance with sub-paragraph (4) or to council tax benefit in accordance with paragraph 3(5) of Schedule 1 (family premium) to the Council Tax Benefit Regulations 2006(221) (“the 2006 Regulations”) as at the day before the date of application for council tax reduction; and
  - (ii) was entitled to housing benefit as at the date of application for council tax reduction or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit Regulations(222),

and in respect of whom, all of the conditions specified in sub-paragraph (3) continue to apply.

**(3)** The conditions specified for the purposes of sub-paragraph (2) are that, in respect of the period commencing on 6th April 1998—

- (a) the applicant did not cease to be entitled, or did not cease to be treated as entitled, to council tax benefit under the 1992 Regulations or the 2006 Regulations at any time on or before 31st March 2013;
- (b) the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to council tax reduction;
- (c) the applicant has not ceased to be a lone parent;
- (d) where the applicant was entitled to income support or to an income-based jobseeker’s allowance on 5th April 1998, the applicant has continuously, since that date, been entitled to income support, an income-based jobseeker’s allowance or income-related employment and support allowance or a combination of those benefits;
- (e) where the applicant was not entitled to income support or to an income-based jobseeker’s allowance on 5th April 1998, the applicant has not become entitled to income support, an income-based jobseeker’s allowance or an income-related employment and support allowance; and
- (f) a premium or components under paragraph 9 (disability premium), paragraph 21 (work-related activity component) or paragraph 22 (support component) of this Schedule, paragraph 12 of Schedule 1 to the 1992 Regulations or paragraph 12, 23 or 24 of Schedule 1 to the Council Tax Benefit Regulations 2006 has not, or did not, become applicable to the applicant.

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(221)S.I. 2006/215.

(222)Regulation 81 was substituted by S.I. 2007/2868.

- (4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant is to be treated as having been entitled to council tax reduction during any period where the applicant was not, or had ceased to be, entitled and—
- (a) throughout that period, the applicant had been awarded housing benefit and the applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations(223) (lone parent rate of family premium); or
  - (b) the applicant would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations and the applicant's applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

## PART 3

### Disability premiums

5. Except as provided in paragraph 6, a premium specified in Part 4 of this Schedule is, for the purposes of regulations 21(d) (applicable amount) and 22(e) (applicable amount: polygamous marriages), applicable to an applicant who satisfies the conditions specified in paragraphs 9 to 14 which relate to that premium.

6. Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to the applicant and, if they are of different amounts, the higher or highest amount applies.

7. The following premiums, namely—

- (a) a severe disability premium to which paragraph 11 applies;
- (b) an enhanced disability premium to which paragraph 12 applies;
- (c) a disabled child premium to which paragraph 13 applies; and
- (d) a carer premium to which paragraph 14 applies,

may be applicable in addition to any other premium which may apply under this Schedule.

8.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979(224) applies, any period during which, apart from the provisions of those Regulations, the person would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(225) or the Secretary of State under section 2 of the 1973 Act(226) for any period during which the person is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only for so long as the person in

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(223)Paragraph 3(1)(a) was amended by S.I. 2011/2425.

(224)S.I. 1979/597.

(225)Section 2 was amended by section 47 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 (c.19), paragraph 20 of Schedule 26 to the Equality Act 2010 (c.15) and S.I. 1999/1820.

(226)Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and was amended by paragraph 29 of Schedule 7 to the Employment Act 1989 (c.38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c.19).

respect of whose care the allowance has been claimed remains in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment.

### **Disability premium**

**9.** With regard to disability premium the condition referred to in paragraph 5 is that—

- (a) where the applicant is a single applicant or a lone parent, the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1) is satisfied; or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1) is satisfied by the applicant; or
  - (ii) the applicant's partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by the applicant's partner.

### **Additional condition for the disability premium**

**10.—(1)** Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

- (a) the applicant or, as the case may be, the applicant's partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit Regulations<sup>(227)</sup>, mobility supplement, long-term incapacity benefit or severe disablement allowance under Part 3 of the 1992 Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of the applicant;
  - (ii) was in receipt of long-term incapacity benefit when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to council tax benefit under the Council Tax Benefit (General) Regulations 1992<sup>(228)</sup> or the Council Tax Benefit Regulations 2006<sup>(229)</sup> before 1st April 2013 and to council tax reduction from that date, and, if the long-term incapacity benefit was payable to the applicant's partner, the partner is still a member of the family;
  - (iii) was in receipt of attendance allowance, disability living allowance or personal independence payment, but payment of the benefit has been suspended in accordance with regulations made under section 113(2) of the 1992 Act or section 86(1) of the Welfare Reform Act 2012 or otherwise abated as a consequence of the applicant or the applicant's partner becoming a patient within the meaning of regulation 28(11) (g) (treatment of child care charges);
  - (iv) is provided with an invalid carriage or other vehicle under section 46 of the National Health Service (Scotland) Act 1978<sup>(230)</sup> ("the 1978 Act"), paragraph 9(1) of Schedule 1 to the National Health Service Act 2006<sup>(231)</sup> ("the 2006 Act") or article

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(227) Regulation 20(1)(f) was amended by [S.I. 2012/848](#).

(228) [S.I. 1992/1814](#).

(229) [S.I. 2006/215](#).

(230) [1978 c.29](#). Section 46 was amended by sections 17 and 114 of the Mental Health (Scotland) Act 1984 ([c.36](#)).

(231) [2006 c.41](#). Paragraph 9(1) was substituted by section 17(10) of the Health and Social Care Act [2012 \(c.7\)](#).

30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972([232](#)) or receives payments by way of grant from the Scottish Ministers under section 46 of the 1978 Act or the Secretary of State under paragraph 9(3) of Schedule 1 to the 2006 Act; or

(v) has been certified as blind and in consequence the applicant or the applicant's partner is registered as blind in a register maintained by or on behalf of a local authority in Scotland or has been registered as blind, in a register compiled under section 29 of the National Assistance Act 1948([233](#)) (welfare services); or

(b) the applicant—

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the 1992 Act (incapacity for work); and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the 1992 Act([234](#)), 196 days; and

(bb) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(v), a person who has ceased to be registered as blind on that person regaining eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which the person ceased to be registered as blind.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of the applicant satisfying the additional condition specified in that provision, if the applicant then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work, on again becoming incapable of work the applicant is immediately to be treated as satisfying the condition in that sub-paragraph.

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of the applicant satisfying the additional condition specified in that provision, the applicant is to continue to be treated as satisfying that condition for any period spent by the applicant in undertaking a course of training provided under section 2 of the 1973 Act([235](#)) or section 2 of the Enterprise and New Towns (Scotland) Act 1990([236](#)) or for any period during which the applicant is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods are to be treated as one continuous period.

(6) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of the applicant satisfying the additional condition specified in that provision, the applicant is to continue to be treated as satisfying that condition for any period spent by the

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(232)[S.I. 1972/1265](#).

(233)[1948 c.29](#). Section 29 was amended by section 1 of the National Assistance (Amendment) Act 1959 ([c.30](#)), Schedule 4 to the Mental Health (Scotland) Act 1960 ([c.61](#)), Part 1 of Schedule 9 to the Social Work (Scotland) Act 1968 ([c.49](#)), section 195 of, and paragraph 2 of Schedule 23 and Schedule 30 to, the Local Government Act 1972 ([c.70](#)), paragraph 3 of Schedule 3 to the Employment and Training Act 1973 ([c.50](#)), section 30 and Schedule 10 to the Health and Social Services and Social Security Adjudications Act 1983 ([c.41](#)), section 44 of the National Health Service and Community Care Act 1990 ([c.19](#)), paragraph 8 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 ([c.43](#)) and section 147 of the Health and Social Care Act 2008 ([c.14](#)).

(234)Section 30B was inserted by [S.I. 1994/2926](#).

(235)Section 2 was substituted by section 25 of the Employment Act 1988 ([c.19](#)) and amended by section 29 of, and Schedule 7 to, the Employment Act 1989 ([c.38](#)) and section 47 of the Trade Union Reform and Employment Rights Act 1993 ([c.19](#)).

(236)[1990 c.35](#). Section 2 was amended by section 47 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 ([c. 19](#)), paragraph 20 of Schedule 26 to the Equality Act 2010 ([c.15](#)) and [S.I. 1999/1820](#).

applicant in undertaking a course of training provided under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or section 2 of the 1973 Act.

(7) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the 1992 Act (short-term incapacity benefit for a person who is terminally ill) or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to the person is or was equal to or greater than the long-term rate.

(8) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Inc incapacity for Work) (General) Regulations 1995<sup>(237)</sup> applies, and who again becomes incapable of work for the purposes of Part 12A of the 1992 Act)—

- (a) the reference to a period of 8 weeks in sub-paragraph (3); and
- (b) the reference to a period of 56 days in sub-paragraph (5),

is in each case to be treated as a reference to a period of 104 weeks.

(9) The applicant is not entitled to the disability premium if the applicant has, or is treated as having, limited capability for work.

(10) In this paragraph “invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant.

### **Severe disability premium**

11.—(1) With regard to severe disability premium the condition referred to in paragraph 5 is that the applicant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if—

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) the applicant is in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment; and
  - (ii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with the applicant or with whom the applicant normally resides; and
  - (iii) no person is in receipt of a carer’s allowance under section 70 of the 1992 Act<sup>(238)</sup> in respect of caring for the applicant; or
- (b) in the case of an applicant who has a partner—
  - (i) the applicant is in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment;
  - (ii) the applicant’s partner is also in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment;

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(237)S.I. 1995/311. Regulation 13A was inserted by S.I. 1998/2231. Regulation 13A(1) was amended by S.I. 2006/2378.

(238)Section 70 was amended by S.I. 1994/2556, 2002/1457 and 2011/2426.

independence payment or, if the applicant is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance or payment;

(iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with the applicant or with whom the applicant normally resides,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of the couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of a carer's allowance in respect of caring for either member of the couple or any partner of the polygamous marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if the partner was not a partner of the applicant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance, disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment if the person would, but for being a patient in hospital for a period exceeding 28 days, be in receipt of that allowance or payment;
- (b) as being entitled to and in receipt of a carer's allowance if the person would, but for the person being cared for being a patient in hospital for a period exceeding 28 days, be entitled to and in receipt of a carer's allowance.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of the award is back-dated for a period before the date on which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001(<sup>239</sup>) (loss of benefit provisions).

## **Enhanced disability premium**

**12.—(1)** With regard to enhanced disability premium and subject to sub-paragraph (2) the condition referred to in paragraph 5 is that—

- (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity;
- (b) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations made under section 113(2) of the 1992 Act or an

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(<sup>239</sup>)<sup>2001 c.11.</sup> Section 6B was inserted by section 24 of the Welfare Reform Act [2009 \(c.24\)](#) and amended by section 113 of the Welfare Reform Act [2012 \(c. 5\)](#). Section 7 was amended by paragraph 45 of Schedule 2 to the State Pension Credit Act [2002 \(c.16\)](#), section 49 of, and paragraph 23 of schedule 3 to, the Welfare Reform Act [2007 \(c.5\)](#), paragraph 2 of Schedule 4 and Schedule 7 to the Welfare Reform Act [2009 \(c.24\)](#) and [S.I. 2011/2298](#).

abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 72(3) of the 1992 Act in respect of—

- (i) the applicant; or
- (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations made under section 86(1) of the Welfare Reform Act 2012 or an abatement as a consequence of hospitalisation, be payable in respect of the applicant or a member of the applicant's family who has not attained the qualifying age for state pension credit.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or the applicant's partner is entitled to child benefit in respect of child or young person under section 145A of the 1992 Act([\(240\)](#)) (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (a) an applicant who—
  - (i) is not a member of a couple or a polygamous marriage; and
  - (ii) is a patient within the meaning of regulation 28(11)(g) (treatment of child care charges: patients) and has been for a period of more than 52 weeks; or
- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of regulation 28(11)(g) and has been for a period of more than 52 weeks.

### **Disabled child premium**

13. With regard to disabled child premium the condition referred to in paragraph 5 is that a child or young person for whom the applicant or the applicant's partner is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because the child or young person is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 10(1)(a)(v) and (2) (disability premium); or
- (c) is a child or young person in respect of whom section 145A of the 1992 Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

### **Carer premium**

14.—(1) With regard to carer premium the condition referred to in paragraph 5 is that the applicant or the applicant's partner is, or both of them are, entitled to a carer's allowance.

(2) Where a carer premium is awarded but—

- (a) the person in respect of whose care the carer's allowance has been awarded dies; or

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(240)Section 145A was inserted by section 55 of the Tax Credits Act 2002 ([c. 21](#)) and amended by paragraph 48 of Schedule 24 to the Civil Partnership Act 2004 ([c. 33](#)) and paragraph 12 of Schedule 1 to the Child Benefit Act 2005 ([c.6](#)).

- (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium is to be treated as satisfied for a period of 8 weeks from the relevant date specified in sub-paragraph (3).

- (3) The relevant date for the purposes of sub-paragraph (2) is—

- (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday; and
- (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for council tax reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which—

- (a) the person in respect of whose care the carer's allowance has been awarded dies; and
- (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

### **Persons in receipt of concessionary payments**

**15.** For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

### **Persons in receipt of benefit for another**

**16.** For the purposes of this Part of this Schedule, a person is to be regarded as being in receipt of any benefit only if it is paid in respect of the person and is to be regarded as being in receipt of the benefit only for any period in respect of which that benefit is paid.

## **PART 4**

### **Amounts of disability premiums**

**17.** The premiums referred to in regulation 21(d) (applicable amount) and 22(e) (applicable amount: polygamous marriages) and paragraph 5 of this Schedule are set out in the following table.

<i>Premium</i>	<i>Amount</i>
Disability premium—	
(a) where the applicant satisfies the condition in paragraph 9(a);	£30.35
(b) where the applicant satisfies the condition in paragraph 9(b).	£43.25
Severe disability premium—	
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	£58.20
(b) where the applicant satisfies the condition in paragraph 11(2)(b)—	

<i>Premium</i>	<i>Amount</i>
(i) in a case where there is someone in receipt of a carer's allowance or if the applicant or the applicant's partner satisfies that condition only by virtue of paragraph 11(5);	£58.20
(ii) in a case where there is no-one in receipt of a carer's allowance.	£116.40
Disabled child premium.	£56.63 in respect of each child or young person in respect of whom the condition specified in paragraph 13 is satisfied.
Carer premium.	£32.60 in respect of each person who satisfies the condition specified in paragraph 14.
Enhanced disability premium.	<ul style="list-style-type: none"> <li>(a) £22.89 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;</li> <li>(b) £14.80 in respect of each person who is neither—           <ul style="list-style-type: none"> <li>(i) a child or young person; nor</li> <li>(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 12 are satisfied;</li> </ul> </li> <li>(c) £21.30 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.</li> </ul>

## PART 5

### Components

#### **Components**

**18.** Subject to paragraph 20 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 if—

- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—

- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
- (ii) regulation 7 of the Employment and Support Allowance Regulations(241) (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

**19.** Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or the applicant's partner is entitled to a converted employment and support allowance.

**20.—(1)** The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10.

(2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

#### **Work-related activity component**

**21.** The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work.

#### **Support component**

**22.** The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

#### **Amount of components**

**23.** The amount of the work-related activity component is £28.15.

**24.** The amount of the support component is £34.05.

## **PART 6**

### **Transitional addition**

**25.—(1)** The applicant is entitled to a transitional addition calculated in accordance with paragraph 28 where the applicant or the applicant's partner—

- (a) is entitled to a converted employment and support allowance; or
- (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and—
  - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations(242) as modified by the Employment and Support Allowance (Existing Awards) Regulations; and

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(241)Regulation 7 was amended by S.I. 2008/3051 and 2010/840.

(242)Regulation 30 was amended by S.I. 2010/840 and 2011/674.

(ii) is not in receipt of an income-related employment and support allowance, unless the amount of the transitional addition calculated in accordance with paragraph 28 would be nil.

(2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the end of the applicant's entitlement to council tax reduction;
- (c) the applicant or the applicant's partner ceasing to meet the requirements of subparagraph (1)(a) or (b), as the case may be;
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support; or
- (e) 5th April 2020.

**26.—(1)** This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends because of the ending of the applicant's entitlement to council tax reduction under
  - (i) paragraph 25(2)(b);
  - (ii) paragraph 27(3)(b);
  - (iii) sub-paragraph (3)(b) of this paragraph; or
- (b) within 104 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to council tax reduction;
- (c) in the reduction week in which the applicant again becomes entitled to council tax reduction applicant or the applicant's partner is entitled to an employment and support allowance which is not income-related;
- (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where applicant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (e) at the date on which the applicant again becomes entitled to council tax reduction neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to council tax reduction, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the end of the applicant's entitlement to council tax reduction;
- (c) the applicant or the applicant's partner no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);

- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support; or
- (e) 5th April 2020.

**27.—(1)** This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends by virtue of the applicant or the applicant's partner ceasing to be entitled to an employment and support allowance under—
  - (i) paragraph 25(2)(c);
  - (ii) paragraph 26(3)(c); or
  - (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th April 2020 the applicant or the applicant's partner again becomes entitled to an employment and support allowance which is not income-related;
- (c) either—
  - (i) at the date on which the applicant or the applicant's partner again becomes entitled to an employment and support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulation applies to the applicant or the applicant's partner; or
  - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (d) at the date on which the applicant or the applicant's partner again becomes entitled to an employment and support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day that the applicant's or the applicant's partner's entitlement to employment and support allowance takes effect for council tax reduction purposes, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the end of the applicant's entitlement to council tax reduction;
- (c) the applicant or the applicant's partner no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support; or
- (e) 5th April 2020.

#### **Amount of transitional addition**

**28.—(1)** Subject to paragraph 29, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the applicant or the applicant's partner—

- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.

(3) Where the applicant or the applicant's partner is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations (a decision that an existing award does not qualify for conversion into an award of employment and support allowance) and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations<sup>(243)</sup> as modified by the Employment and Support Allowance (Existing Awards) Regulations—

- (a) Amount A is the basic amount that would have applied on the day the applicant or the applicant's partner was first treated as having limited capability for work if the applicant's partner had not been treated as having limited capability for work; and
- (b) Amount B is the basic amount that applied on that day as a result of the applicant or the applicant's partner being treated as having limited capability for work.

(4) In this paragraph and paragraph 29, “basic amount” means the aggregate of the amounts applying in the applicant's case in accordance with regulation 21(a) to (e) (applicable amount) or regulation 22(a) to (f) (applicable amount: polygamous marriages).

**29.—(1)** Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant's basic amount, the transitional addition that applies immediately before the change of circumstances is to be reduced by the amount by which Amount C exceeds Amount D.

(2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition is to be reduced to nil.

(3) Amount C is the basic amount that applies as a result of the increase.

(4) Amount D is the basic amount that applied immediately before the increase.

## SCHEDULE 2

Regulation 78

### Amount of alternative maximum council tax reduction

**1.** Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of regulation 78 is to be determined in accordance with the following table.

(1)	(2)
<i>Second adult</i>	<i>Alternative maximum council tax reduction</i>
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's	25 per cent of the council tax due in respect of that day;

<sup>(243)</sup>Regulation 30 was amended by S.I. 2010/840 and 2011/674.

<i>(1)</i>	<i>(2)</i>
<i>Second adult</i>	<i>Alternative maximum council tax reduction</i>
allowance or in receipt of universal credit;	
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—	
(i) is less than £177.00 per week;	15 per cent of the council tax due in respect of that day;
(ii) is not less than £177.00 per week but is less than £231.00 per week.	7.5 per cent of the council tax due in respect of that day.
(c) where the dwelling would be wholly occupied by one or more persons to whom regulation 20(2) applies but for the presence of one or more second adults who are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance.	100 per cent of the council tax due in respect of that day.

**2.** In determining a second adult's gross income for the purposes of this Schedule, there must be disregarded from that income—

- (a) any attendance allowance, disability living allowance or personal independence payment;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombing Relief Charitable Fund which had the second adult's income fallen to be calculated under regulation 39 (calculation of income other than earnings) would have been disregarded under paragraph 27 of Schedule 4 (income in kind); and
- (c) any payment which had the second adult's income fallen to be calculated under regulation 39 (calculation of earnings other than income) would have been disregarded under paragraph 41 of Schedule 4 (payments made under certain trusts and certain other payments).

**3.** Where there are two or more second adults residing with the applicant and any of those second adults falls to be disregarded for the purposes of discount in accordance with Schedule 1 of the Act<sup>(244)</sup>, that second adult's income is to be disregarded in determining the amount of any alternative maximum council tax reduction, unless that second adult is a member of a couple and the other partner does not fall to be disregarded for the purposes of discount.

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<sup>(244)</sup>Schedule 1 was amended by paragraph 152 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), paragraph 18 of schedule 3 to the Regulation of Care (Scotland) Act 2001 (asp 8), paragraph 152 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43), paragraph 123 of Schedule 16 and Schedule 17 to the Armed Forces Act 2006 (c.52) and S.S.I. 2005/465.

**4. In this Schedule—**

“council tax due in respect of that day” means the council tax payable under section 78 of the Act(245) less—

- (a) any reductions in liability for council tax under regulations made under section 80 of the Act or under a scheme established under section 80A of the Act, other than a reduction under these Regulations; and
- (b) in a case to which item (c) in column (1) of the table above applies, the amount of any discount which may be appropriate to the dwelling under the Act;

“persons to whom regulation 20(2) applies” includes any person to whom that regulation would apply if that person, and any partner of that person, was below the qualifying age for state pension credit; and

“second adult” means any person or persons residing with the applicant to whom regulation 14(6) (conditions of entitlement to council tax reduction) applies.

**SCHEDULE 3**

Regulations 35(2) and 37(2)

**Sums to be disregarded in the calculation of earnings**

**1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain—**

- (a) where—
  - (i) the employment has been terminated because of retirement; and
  - (ii) on retirement the applicant is entitled to a retirement pension under the 1992 Act, or is not entitled solely because of the applicant’s failure to satisfy the contribution conditions, any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;
- (b) where before the first day of entitlement to council tax reduction the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—
  - (i) any payment of the nature described in—
    - (aa) regulation 34(1)(e) (earnings of employed earners); or
    - (bb) section 28, 64 or 68 of the Employment Rights Act 1996(246) (guarantee payments, suspension from work on medical or maternity grounds); and
  - (ii) any award, sum or payment of the nature described in—
    - (aa) regulation 34(1)(g) or (i), or
    - (bb) section 34 or 70 of the Employment Rights Act 1996(247) (guarantee payments and suspension from work: complaints to employment tribunals), including any payment made following the settlement of a complaint to an employment tribunal or court proceedings;
- (c) where before the first day of entitlement to council tax reduction—

(245)Section 78 was amended by paragraph 176 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39).

(246)1996 c.18. Section 64 was amended by S.I. 1999/3232.

(247)Sections 34 and 70 were amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 2011/1133.

- (i) the employment has not been terminated; but
- (ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or regulation 34(1)(i) or (j) any earnings in respect of that employment except earnings to which regulation 34(1)(d), (e), (i) and (j) applies.

2. In the case of an applicant who, before the first day of entitlement to council tax reduction—
  - (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
  - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings paid or due to be paid in respect of that employment except—

- (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb); or
- (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or regulation 34(1)(j) or (k) (earnings of employed earners).

3. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain and who has ceased to be so employed, from the date of the cessation of the applicant's employment, any earnings derived from that employment except earnings to which regulation 36(3) and (4) (earnings of self-employed earners) apply.

4.—(1) In a case to which this paragraph applies and paragraph 5 does not apply, £20, but notwithstanding regulation 24 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it does not apply to the applicant's partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the applicant's applicable amount includes an amount by way of disability premium, severe disability premium, work-related activity component or support component under Schedule 1 (applicable amounts).

(3) This paragraph applies where—

- (a) the applicant is a member of a couple and the applicant's applicable amount includes an amount by way of the disability premium under Schedule 1; and
- (b) the applicant or the applicant's partner has not attained the qualifying age for state pension credit and at least one of them is engaged in employment.

5. In a case where the applicant is a lone parent, £25.

6.—(1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under Schedule 1 (applicable amounts), £20 of the earnings of the person who is, or at any time in the preceding 8 weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.

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

7. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 6 exceed £20.

8. In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and the applicant is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 24 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it does not apply to the applicant's partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.

9.—(1) In a case where paragraphs 4, 5, 6 and 7 do not apply to the applicant, £20 of earnings derived from one or more employments as—

- (a) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005<sup>(248)</sup>) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (b) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004<sup>(249)</sup> or a scheme to which section 4 of that Act<sup>(250)</sup> applies;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001<sup>(251)</sup>,

but, notwithstanding regulation 24 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it does not apply to the applicant's partner except to the extent specified in sub-paragraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of the partner's earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
- (b) other than an employment specified in sub-paragraph (1), so much of the partner's earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

10. Where the applicant is engaged in one or more employments specified in paragraph 9(1), but the applicant's earnings derived from such employments are less than £20 in any week and the

<sup>(248)</sup>[2005 asp 5](#).

<sup>(249)</sup>[2004 c.21](#). Section 2 was amended by paragraph 22 of Schedule 1 to Schedule 7 to the Local Government and Public Involvement in Health Act 2007 ([c.28](#)) and Part 4 of Schedule 7 to the Local Democracy, Economic Development and Construction Act 2009 ([c.20](#)).

<sup>(250)</sup>Section 4 was amended by paragraph 22 of Schedule 1 to the Local Government and Public Involvement in Health Act 2007 ([c.28](#)) and Schedule 7 to the Local Democracy, Economic Development and Construction Act 2009 ([c. 20](#)).

<sup>(251)</sup>[S.I. 2001/1004](#).

applicant is also engaged in any other employment so much of the applicant's earnings from that other employment, up to £5 if the applicant is a single applicant, or up to £10 if the applicant has a partner, as would not in aggregate with the amount of the applicant's earnings disregarded under paragraph 9 exceed £20.

**11.** In a case to which none of paragraphs 4 to 10 applies, £5.

**12.—(1)** Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the relevant authority is satisfied that that person is undertaking exempt work; and
- (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply, but in any case where the applicant is a lone parent and the specified amount would be less than the amount specified in paragraph 5, paragraph 5 applies instead of this paragraph.

(3) Notwithstanding regulation 24 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it does not apply to the other member of that couple ("B") except to the extent provided for in sub-paragraph (4).

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

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

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit under Section 30A, 40 or 41 of the 1992 Act;
- (c) in receipt of severe disablement allowance; or
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975(**252**).

(6) In this paragraph "exempt work" means work of the kind described in—

- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations(**253**); or (as the case may be);
- (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995(**254**),

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

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

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(**252**)[S.I. 1975/556](#). Regulation 8B was added by [S.I. 1996/2367](#) and amended by [S.I. 2000/3120](#), [2003/521](#), [2008/1554](#), [2010/385](#) and [2012/913](#).

(**253**)Regulation 45(3) and (4) was amended by [S.I. 2010/840](#) and [2011/674](#).

(**254**)[S.I. 1995/311](#). Regulation 17 was substituted by [S.I. 2006/757](#). Regulation 17(3) was amended by [S.I. 2010/840](#) and [2011/674](#). Regulation 17(4) was amended by [S.I. 2010/840](#) and [2011/674](#).

**13.** Any amount or the balance of any amount which would fall to be disregarded under paragraph 22 or 23 (students: parental contributions) of Schedule 4 had the applicant's income which does not consist of earnings been sufficient to entitle the applicant to the full disregard under those paragraphs.

**14.** Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the applicant's earnings.

**15.** Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

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

**17.** Any earnings of a child or young person.

**18.—(1)** In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and the applicant's net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of the applicant's earnings to be disregarded under paragraphs 4 to 12 is to be increased by £17.10.

(2) The conditions are that—

- (a) the applicant, or if the applicant is a member of a couple, either the applicant or the other member of that couple, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or
  - (b) the applicant
    - (i) is, or if the applicant is a member of a couple, at least one member of that couple is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week;
    - (ii) is a member of a couple and—
      - (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
      - (bb) the applicant's applicable amount includes a family premium under paragraph 4 of Schedule 1;
    - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
    - (iv) is, or if the applicant is a member of a couple, at least one member of that couple is, engaged in remunerative work for on average not less than 16 hours per week and—
      - (aa) the applicant's applicable amount includes a disability premium under paragraph 9 of Schedule 1 the work-related activity component under paragraph 21 of that Schedule or the support component under paragraph 22 of that Schedule; and
      - (bb) where the applicant is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in sub-head (aa) and is engaged in remunerative work for on average not less than 16 hours per week.
- (3) The following are the amounts referred to in sub-paragraph (1)—
- (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12;

- (b) the amount of child care charges calculated as deductible under regulation 27(1)(c) (calculation of income on a weekly basis); and
  - (c) £17.10.
- (4) The provisions of regulation 6 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation was a reference to 30 hours.
- 19.** In this Schedule “part-time employment” means employment in which the person is engaged on average for less than 16 hours a week.

#### SCHEDULE 4

Regulation 39(2)

Sums to be disregarded in the calculation of income other than earnings

1. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by the applicant in respect of participation in the Mandatory Work Activity Scheme.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by the applicant in respect of participation in the Employment, Skills and Enterprise Scheme.
3. Any amount paid by way of tax on income which is to be taken into account under regulation 39 (calculation of income other than earnings).
4. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
  - (a) engaged by a charitable or voluntary organisation; or
  - (b) volunteer,if the applicant otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 41(5) (notional income).
5. Any payment in respect of expenses arising out of the applicant’s participation in a service user group.
6. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
7. Where the applicant is on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, the whole of the applicant’s income.
8. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and the applicant’s partner is on an income-based jobseeker’s allowance, the whole of the applicant’s income.
9. Where the applicant, or a person who was the applicant’s partner on 31st March 2003, was entitled on that date to income support or an income-based jobseeker’s allowance but ceased to be entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999([255](#)) as in force at that date, the whole of the applicant’s income.
10. Any disability living allowance or personal independence payment.
11. Any concessionary payment made to compensate for the non-payment of—
  - (a) any payment specified in paragraph 10 or 13;

- (b) income support;
- (c) an income-based jobseeker's allowance;
- (d) an income-related employment and support allowance.

**12.** Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(256) (including a mobility supplement under any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(257) or any payment intended to compensate for the non-payment of such a supplement.

**13.** Any attendance allowance.

**14.** Any payment as holder of the Victoria Cross or of the George Cross or any analogous payment.

**15.—(1)** Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
    - (i) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980(258) (power to assist persons to take advantage of educational facilities);
    - (ii) directions made under section 73ZA of the Education (Scotland) Act 1980(259) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(260); or
    - (iii) regulations made under section 518 of the Education Act 1996(261) (payment of school expenses: grant of scholarships etc);
  - (b) corresponding to an education maintenance allowance made pursuant to—
    - (i) section 14 or section 181 of the Education Act 2002(262) (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
    - (ii) regulations made under section 181 of that Act; or
  - (c) by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 49 of the Education (Scotland) Act 1980;
  - (b) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or
  - (c) regulations made under section 518 of the Education Act 1996,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

(256) S.I. 2006/606.

(257) S.I. 1983/686. Article 25A was inserted by S.I. 1983/1164 and amended by S.I. 1983/1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445 and 2001/420.

(258) 1980 c.44. Section 49 was amended by section 5 of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 (asp 15) and paragraph 8 of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989 (c.39). Section 73(f) was amended by section 3 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

(259) Section 73ZA was inserted by section 19 of the Further and Higher Education (Scotland) Act 2005 (asp 6).

(260) 1992 c.37.

(261) 1996 c.56. Section 518 was substituted by section 129 of the School Standards and Framework Act 1998 (c.31) and amended by S.I. 2010/1158.

(262) 2002 c.32. Section 14 was amended by section 59 of the Children Act 2004 (c.31), paragraph 23 of Schedule 14 to the Education Act 2005 (c.18), section 15 of the Education Act 2011 (c. 21) and S.I. 2010/1158. Section 181 was amended by S.I. 2010/1158.

**16.** Any payment made by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2003(**263**).

**17.—(1)** Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit under section 30A, 40 or 41 of the 1992 Act, severe disablement allowance or an employment and support allowance;
  - (b) of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
  - (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to enhance the applicant's employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.
- (2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of the applicant's family, or any council tax or water charges for which that applicant or member is liable.

**18.—(1)** Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment not falling within head (a) or (b) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
- (d) a payment under an annuity purchased—
  - (i) pursuant to any agreement or court order to make payments to the applicant; or
  - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
- (e) a payment not falling within heads (a) to (d) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

(2) Sub-paragraph (1) does not apply to a payment which is made or due to be made by—

- (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
- (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

**19.** Any of the following payments—

- (a) a war disablement pension except insofar as that pension is to be disregarded under paragraph 12 (mobility supplement) or 13 (attendance allowance);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;

- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(3)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of a pension or payment mentioned in any of heads (a) to (d);
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in heads (a) to (d); or
- (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

**20.** Subject to paragraph 40, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the 1992 Act(**264**);
- (b) widowed parent's allowance paid pursuant to section 39A of the 1992 Act(**265**).

**21.**—(1) Any income derived from capital to which the applicant is or is treated under regulation 50 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 3, 4, 6, 10, 16 or 30 to 33 of Schedule 5.

(2) Income derived from capital disregarded under paragraphs 4, 6 or 30 to 33 of Schedule 5 but only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of “water charges” in regulation 2(1) (interpretation) applies to sub-paragraph (2) with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as a home”.

**22.** Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under regulations made under section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship or other allowance under that section or under regulations made under section 73 of that Act(**266**), any payment to that student under that section;
- (b) the student's student loan, an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable; or
- (c) under or pursuant to regulations made under sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998(**267**), that student's award.

(**264**) Section 37 was amended by paragraph 18 of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 ([c.33](#)), paragraph 2 of Schedule 1 to the Child Benefit Act 2005 ([c.6](#)) and section 50 of the Welfare Reform Act 2007 ([c.5](#)).

(**265**) Section 39A was inserted by section 55 of the Welfare Reform and Pensions Act 1999 ([c.30](#)) and amended by paragraph 20 of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 ([c.33](#)), paragraph 3 of Schedule 1 to the Child Benefit Act 2005 ([c.6](#)) and section 51 of the Welfare Reform Act 2007 ([c.5](#)).

(**266**) Section 73 was amended by section 73 of the Self-Governing Schools etc. (Scotland) Act 1989 ([c.39](#)) and section 3 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 ([asp 6](#)).

(**267**) 1998 c. 30. Section 22 was amended by section 146 and Schedule 11 of the Learning and Skills Act 2000 ([c.21](#)), section 147 of the Finance Act 2003 ([c.14](#)), sections 42 and 43 of, and Schedule 7 to, the Higher Education Act 2004 ([c.8](#)), section 257 of the

**23.**—(1) Where the applicant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of—
  - (i) a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980 (power of education authorities to assist pupils to take advantage of educational facilities) or a payment under section 73 of that Act; or
  - (ii) an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teaching and Higher Education Act 1998 or regulations made under that Act,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 22, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount is a sum equal to the lesser of—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single applicant aged under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b).

**24.** Any payment made to the applicant by a child or young person or a non-dependant.

**25.** Where the applicant occupies a dwelling as the applicant's home and the dwelling is also occupied by a person other than one to whom paragraph 24 or 26 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of that person's family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of that person's family, or by that person and a member of that person's family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

**26.**—(1) Where the applicant occupies a dwelling as the applicant's home and the applicant provides in that dwelling board and lodging accommodation, an amount in respect of each person for which the accommodation is provided for the whole or any part of a week equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of the accommodation provided to such a person does not exceed £20, 100 per cent of the aggregate of the payments; and
- (b) where the aggregate of any payments exceeds £20, £20 and 50 per cent of the excess of the aggregate payment over £20.

(2) In this paragraph “board and lodging accommodation” means accommodation provided to a person or, if the person is a member of a family, to the person or any other member of the person's family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of the family of the person to whom the accommodation is provided) and are consumed in that accommodation or associated premises.

**27.**—(1) Any income in kind, except where regulation 39(11)(b) (calculation of income other than earnings) applies.

(2) In sub-paragraph (1) “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

**28.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**29.—(1)** Any payment made in respect of a person who is a member of the applicant’s family—

- (a) in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007([268](#)) (adoption allowances schemes) or pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002([269](#));
- (b) which is a payment made by a local authority in pursuance of section 50 of the Children Act 1975([270](#)) (payments towards maintenance of children) or section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989([271](#)) (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order);
- (c) which is a payment made by an authority, as defined in article 2 of the Children (Northern Ireland) Order 1995([272](#)), in pursuance of article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance); or
- (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989([273](#)) (special guardianship support services).

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

**30.** Any payment made to the applicant by virtue of arrangements made—

- (a) by a local authority under—
  - (i) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009([274](#)) (fostering and kinship care allowances and fostering allowances); or
  - (ii) section 22C(5) and (6)(a) or (b) or section 23(2)(a) of the Children Act 1989([275](#)) (provision of accommodation and maintenance for a child whom they are looking after); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989([276](#)) (provision of accommodation by voluntary organisations).

**31.** Any payment for a person (“the person concerned”), who is not normally a member of the applicant’s household but is placed temporarily in the applicant’s care, by—

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;

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([268](#))[2007](#) asp 4.

([269](#))[2002](#) c.38. Section 4 was amended by [S.I. 2010/1158](#).

([270](#))[1975](#) c.72. Section 50 was amended by paragraph 26 of Schedule 4 to the Children (Scotland) Act 1995 ([c.36](#)) and section 71 of the Regulation of Care (Scotland) Act 2001 ([asp 8](#)).

([271](#))[1989](#) c.41. Section 15(1) was amended by paragraph 10 of Schedule 16 to the Courts and Legal Services Act 1990 ([c.41](#)). Paragraph 15 of Schedule 1 was amended by section 78 of the Civil Partnership Act 2004 ([c.33](#)).

([272](#))[S.I. 1995/755](#).

([273](#))Section 14F was inserted by section 115 of the Adoption and Children Act 2002 ([c.38](#)).

([274](#))[S.S.I. 2009/210](#). Regulation 33 was amended by [S.S.I. 2009/290](#).

([275](#))In relation to England sections 22A to 22F were substituted for section 23 by section 8 of the Children and Young Persons Act 2008 ([c.23](#)). Section 23(2)(a) remains in force in relation to Wales and was amended by section 49 of the Children Act 2004 ([c.31](#)) and paragraph 7 of Schedule 3 to the Children and Young Persons Act 2008 ([c.23](#)).

([276](#))Section 59(1)(a) was amended by section 49 of the Children Act 2004.

- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(277);
- (e) a primary care trust established under section 16A of the National Health Service Act 1977(278) or established by an order made under section 18(2)(c) of the National Health Service Act 2006(279); or
- (f) a Local Health Board established under section 16BA of the National Health Service Act 1977(280) or established by an order made under section 11 of the National Health Service (Wales) Act 2006(281).

**32.** Any payment made by a local authority in accordance with section 12 of the Social Work (Scotland) Act 1968(282), section 22, 29 or 30 of the Children (Scotland) Act 1995(283) (provision of services for children and their families and advice and assistance to certain children) or section 17, 23B, 23C or 24A of the Children Act 1989(284).

**33.—(1)** Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 29 of the Children (Scotland) Act 1995(285) (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) or section 23C of the Children Act 1989 to a person ("A") which A passes on to the applicant.

- (2) Sub-paragraph (1) applies only where A—
  - (a) was formerly in the applicant's care;
  - (b) is aged 18 or over; and
  - (c) continues to live with the applicant.

**34.—(1)** Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

- (a) on a loan which is secured on the dwelling which the applicant occupies as the applicant's home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974(286) or under a hire-purchase agreement or a conditional sale agreement as defined for then purposes of Part 3 of the Hire-Purchase Act 1964(287).

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(277) 1948 c.29. Section 26(3A) was inserted by section 42 of the National Health Service and Community Care Act 1990 (c.19).

(278) 1977 c.49. Section 16A was inserted by section 2 of the Health Act 1999 (c.8).

(279) 2006 c.41.

(280) Section 16BA was inserted by section 6 of the National Health Service Reform and Health Care Professions Act 2002 (c.17).

(281) 2006 c.42.

(282) 1968 c.49. Section 12 was amended by section 66 and paragraph 10 of Schedule 9 to the National Health Service and Community Care Act 1990, paragraph 15 of Schedule 4 to the Children (Scotland) Act 1995 (c.36), section 120 of the Immigration and Asylum Act 1999 (c.33), and section 3 of the Community Care and Health (Scotland) Act 2002 (asp 5).

(283) Section 22 was amended by paragraph 6 of Schedule 1 to the Tax Credits Act 1999 (c.10), paragraph 50 of Schedule 3 to the Tax Credits Act 2002 (c.21) and paragraph 14 of Schedule 3 to the Welfare Reform Act 2007 (c.5). Section 29 was amended by section 73 of the Regulation of Care (Scotland) Act 2001 (asp 8).

(284) Section 17 was amended by paragraph 108 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c.6), section 7 of the Children (Leaving Care) Act 2000 (c.35), paragraph 16 of Schedule 3 to the Tax Credits Act 2002, section 116 of the Adoption and Children Act 2002 (c. 38), section 53 of the Children Act 2004, paragraph 6 of Schedule 3 to the Welfare Reform Act 2007, and Schedule 1, paragraph 2 of Schedule 3 and Schedule 4 to the Children and Young Persons Act 2008 (c. 23). Section 23B was inserted by section 2 of Children (Leaving Care) Act 2000 and amended by paragraph 9 of Schedule 3 and Schedule 4 to the Children and Young Persons Act 2008. Section 23C was inserted by section 2 of the Children (Leaving Care) Act 2000 and amended by section 21 of the Children and Young Persons Act 2008. Section 24A was inserted by section 4 of the Children (Leaving Care) Act 2000 and amended by section 116 and paragraph 61 of Schedule 3 to the Adoption and Children Act 2002.

(285) Section 29 was amended by section 73 of the Regulation of Care (Scotland) Act 2001 (asp 8).

(286) 1974 c.39.

(287) 1964 c.53.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or (b); and
- (b) meet any amount due by way of premiums on—
  - (i) that policy; or
  - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as the applicant's home and which is required as a condition of the loan referred to in that sub-paragraph.

**35.** Any payment of income which by virtue of regulation 45 (income treated as capital) is to be treated as capital.

**36.** Any social fund payment made pursuant to Part 8 of the 1992 Act.

**37.** A crisis payment made for the purpose of meeting an immediate short term need or a payment made for the purpose of meeting a need for community care—

- (a) by a local authority, in exercise of the power in section 20 of the Local Government in Scotland Act 2003(**288**) (power to advance well-being) and using funds provided by the Scottish Ministers from the Scottish Welfare Fund;
- (b) by a local authority in exercise of the power in section 1 of the Localism Act 2011(**289**) (local authority's general power of competence) and using funds provided by the Secretary of State, and in this sub-paragraph local authority means a local authority within the meaning of section 8 of that Act; or
- (c) by, or on behalf of, the Welsh Ministers in exercise of the power in section 60 of the Government of Wales Act 2006(**290**) (promotion etc. of well-being).

**38.** Any payment under Part 10 of the 1992 Act (Christmas bonus for pensioners).

**39.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

**40.** The total of an applicant's income or, if the applicant is a member of a family, the family's income and the income of any person which the applicant is treated as possessing under regulation 24(2) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under regulation 55(2)(b) (calculation of covenant income where a contribution is assessed), regulation 56(1)(d) (calculation of covenant income where no grant income or no contribution is assessed) regulation 59(2) (treatment of student loans), regulation 61(3) (treatment of payments from access funds) and paragraph 20 (widowed mother's allowance and widowed parent's allowance) must in no case exceed £20 per week.

**41.—(1)** Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

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(**288**)[2003 asp 1](#).

(**289**)[2011 c.20](#).

(**290**)[2006 c.32](#).

- (a) that person's partner or former partner from whom the person is not, or where the person has died was not, estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved or, where the person has died, had not been dissolved at the time of the person's death;
- (b) any child who is a member of the person's family or who was a member and who is a member of the applicant's family; or
- (c) any young person who is a member of the person's family or who was a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of the person's family or who was a member and who is a member of the applicant's family; or
- (c) any young person who is a member of the person's family or who was a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) the person has no partner or former partner from whom the person is not estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of the person's family; and
- (b) the payment is made either—
  - (i) to the person's parent or step-parent; or
  - (ii) where the person at the date of the payment is a child, a young person or a student who has not completed full-time education and has no parent or step-parent, to the person's guardian,

but only for a period from the date of the payment until the end of two years from the person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) the person at the date of death (the relevant date) had no partner or former partner from whom the person was not estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of the person's family; and
- (b) the payment is made either—
  - (i) to the person's parent or step-parent; or
  - (ii) where the person at the relevant date was a child, a young person or a student who had not completed full-time education and had no parent or step-parent, to the person's guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) and the London Bombings Relief Charitable Fund.

**42.** Any housing benefit.

**43.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**44.** Any payment in consequence of a reduction of council tax under section 13 or 80 of the Act.

**45.—(1)** Any payment or repayment made—

- (a) under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(**291**) (travelling expenses and health service supplies);
- (b) under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(**292**) (travelling expenses and health service supplies); or
- (c) under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007(**293**) (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Scottish Ministers, the Secretary of State for Health or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

**46.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988(**294**) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

**47.** Any payment made by the Scottish Ministers or the Secretary of State under a scheme established to assist relatives and other persons to visit persons in custody.

**48.—(1)** Where an applicant's applicable amount includes an amount by way of family premium calculated under Part 2 of Schedule 1, £15 of any payment of aliment or maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one aliment or maintenance payment is to be taken into account in any week, all the payments are to be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance is, for the purpose of sub-paragraph (1), to be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

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(**291**)[S.S.I. 2003/460](#). Regulation 3 was amended by [S.S.I. 2004/102](#). Regulation 5 was amended by [S.S.I. 2011/55](#). Regulation 11 was amended by [S.S.I. 2004/166](#), [2006/142](#), [2006/183](#) and [2011/55](#).

(**292**)[S.I. 2003/2382](#). Regulation 5 was amended by [S.I. 2004/663](#), [2004/936](#), [2006/562](#), [2008/1697](#) and [2009/411](#). Regulation 6 was amended by [S.I. 2006/562](#) and [2006/675](#). Regulation 12 was amended by [S.I. 2004/696](#) and [2006/562](#).

(**293**)[S.I. 2007/1104](#). Regulation 5 was amended by [S.I. 2008/1879](#) and [2568](#), and [2009/709](#). Regulation 11 was amended by [S.I. 2009/1824](#).

(**294**)[1988 c.7](#). Section 13 was substituted by section 185 of the Health and Social Care (Community Health and Standards) Act 2003 ([c.43](#)).

**49.**—(1) Any payment of child aliment or maintenance made by or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In paragraph (1)—

“child aliment or maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) the Child Support Act 1991(**295**);
- (b) the Child Support (Northern Ireland) Order 1991(**296**);
- (c) a court order;
- (d) a consent order under the Civil Partnership Act 2004, the Matrimonial and Family Proceedings Act 1984 or the Matrimonial Causes Act 1973;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books; and

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987(**297**), other than a person falling within sub-paragraph (d) of that definition.

**50.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(**298**) to assist disabled persons to obtain or retain employment despite their disability.

**51.** Any guardian's allowance payable under section 77 of the 1992 Act(**299**).

**52.**—(1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the 1992 Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the 1992 Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(**300**), any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

**53.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(**301**) (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

**54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(**302**) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme(**303**).

**55.**—(1) Any payment which is—

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(**295**) 1991 c.48.

(**296**) 1991/2628 (N.I. 23).

(**297**) S.I. 1987/1967 was relevantly amended by S.I. 2005/2877 and 2008/2111.

(**298**) 1944 c.10.

(**299**) Section 77 was amended by Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 34 of Schedule 24 to the Civil Partnership Act 2004 (c.33) and paragraph 4 of Schedule 1 to the Child Benefit Act 2005 (c.6).

(**300**) S.I. 2006/606.

(**301**) Article 23(2) was amended by S.I. 2009/706.

(**302**) S.I. 1983/686. Regulation 27(3) was added by S.I. 1994/2021.

(**303**) Schedule 4 was substituted by S.I. 2012/670.

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
  - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
  - (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

**56.** Except in a case which falls under paragraph 18(1) of Schedule 3, where the applicant is a person who satisfies any of the conditions of paragraph 18(2) of that Schedule, any amount of working tax credit up to £17.10.

**57.** Any payment made under section 12B of the Social Work (Scotland) Act 1968([304](#)), sections 12A to 12C of the National Health Service Act 2006([305](#)) (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001([306](#)) (direct payments).

**58.—(1)** Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—

- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity; or
- (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) applies only in respect of payments which are paid to that person from the special account.

**59.—(1)** Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of the applicant’s family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**60.** Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker’s allowance that person would have received in that reduction week had it been payable, that excess amount less 50 pence.

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([304](#))[1968 c.49](#). Section 12B was inserted by section 4 of the Community Care (Direct Payments) Act 1996 ([c. 30](#)) and amended by section 70 of the Regulation of Care (Scotland) Act 2001 ([asp 8](#)), section 7 of, and schedule 2 to, the Community Care and Health (Scotland) Act 2002 ([asp 5](#)) and section 63 of the Adult Support and Protection (Scotland) Act 2007 ([asp 10](#)).

([305](#))[2006 c.41](#). Section 12A to 12D were inserted by section 11 of the Health Act 2009 ([c.21](#)). Section 12B was amended by paragraph 11 of Schedule 4 to the Health and Social Care Act 2012 ([c.7](#)).

([306](#))[2001 c.15](#). Section 57 was amended by section 146 of the Health and Social Care Act 2008 ([c.14](#)) and section 16 of the Social Care Charges (Wales) Measure 2010 ([c.02](#)).

**61.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

**62.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(**307**).

**63.—(1)** Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the applicant or the applicant’s partner relating to a service which is provided to develop or sustain the capacity of the applicant or the applicant’s partner to live independently in the applicant’s accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.

**64.** Any payment of child benefit.

## SCHEDULE 5

Regulation 43(2)

### Capital to be disregarded

**1.** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by the applicant in respect of the applicant’s participation in the Mandatory Work Activity Scheme, but only for a period of 52 weeks, beginning with the date of receipt of the payment.

**2.** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by the applicant in respect of the applicant’s participation in the Employment, Skills and Enterprise Scheme, but only for a period of 52 weeks beginning with the date of receipt of the payment.

**3.** The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as the applicant’s home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, any croft land on which the dwelling is situated, but, notwithstanding regulation 24 (calculation of income and capital of members of applicant’s family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.

**4.** Any premises acquired for occupation by the applicant which the applicant intends to occupy as the applicant’s home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.

**5.** Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as the applicant’s home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.

**6.** Any premises occupied in whole or in part—

- (a) by a partner or relative of a single applicant or any member of the family as that person’s home where that person has attained the qualifying age for state pension credit or is incapacitated; or
- (b) by the former partner of the applicant as that person’s home, but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom the applicant had formed a civil partnership that has been dissolved.

**7.** Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of the applicant's capital.

**8.** Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995(**308**) and the applicant's partner is on income-based jobseeker's allowance, the whole of the applicant's capital.

**9.** Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

**10.—(1)** The assets of any business owned in whole or in part by the applicant and for the purposes of which the applicant is engaged as a self-employed earner, or if the applicant has ceased to be engaged as a self-employed earner, for a period that is reasonable in the circumstances to allow for disposal of any asset.

(2) The assets of any business owned in whole or in part by the applicant where—

- (a) the applicant is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
- (b) the applicant intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as the applicant recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the application for council tax reduction is made, or is treated as made, or, if it is unreasonable to expect the applicant to become engaged or re-engaged in that business within that period, for a longer period that is reasonable in the circumstances to enable the applicant to become engaged or re-engaged as a self-employed earner in that business.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which the assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for a period which is reasonable in the circumstances to allow for disposal of any such asset.

**11.—(1)** Subject to sub-paragraph (2), any arrears of or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraphs 10, 12 or 13 of Schedule 4;
- (b) an income-related benefit under Part 7 of the 1992 Act;
- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(**309**);
- (e) working tax credit and child tax credit; or
- (f) an income-related employment and support allowance,

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more ("the relevant sum") and is—

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(**308**)[1995 c.18.](#)

(**309**)[S.I. 2001/1167.](#)

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations(**310**); and

- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to the arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of entitlement to council tax reduction, for the remainder of that period if it is a longer period.

(3) For the purposes of sub-paragraph (2), “the period of entitlement to council tax reduction” means—

- (a) the period of entitlement to council tax reduction in which the relevant sum is first received (or the first part of the relevant sum where it is paid in more than one instalment); and

- (b) where that period of entitlement is followed by one or more periods of entitlement which, or each of which, begins immediately after the end of the previous period, such further period provided that for that further period the applicant—

- (i) is the person who received the relevant sum; or

- (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of the partner’s death; and

“official error” means an error made by an officer of the Department for Work and Pensions acting as such which no person outside the Department caused or to which no person outside the Department materially contributed but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of the Upper Tribunal or the court.

**12. Any sum—**

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or

- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

**13. Any sum—**

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985(**311**) or section 338(1) of the Housing (Scotland) Act 1987(**312**) as a condition of occupying the home; and

- (b) which was so deposited and which is to be used for the purchase of another home,

for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.

**14. Any personal possessions except those acquired by the applicant with the intention of reducing the applicant’s capital in order to secure entitlement to council tax reduction or to increase the amount of that reduction.**

**15. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.**

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(**310**) Regulation 1(2) was relevantly amended by S.I. 2002/1379, 2002/1703, 2008/2683 and 2012/757.

(**311**) 1985 c.69. Section 1(1) was amended by sections 1 and 3 of, and paragraph 6 of Schedule 2 to, the Housing (Scotland) Act 1988 (**c.43**), paragraph 11 of schedule 10 to the Housing (Scotland) Act 2001 (asp 10) and S.I. 1996/2325.

(**312**) 1987 c.26. There are amendments to section 338 which are not relevant to these Regulations.

**16.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

**17.—(1)** Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.

(2) But sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the applicant or as the case may be the applicant's partner first receives any payment in consequence of that personal injury;
- (b) does not apply to any subsequent payment made to the applicant or as the case may be the applicant's partner in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the applicant or as the case may be the applicant's partner no longer possesses it; and
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant or as the case may be the applicant's partner.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant or an applicant's partner no longer possesses a payment or a part of it include where the applicant or as the case may be the applicant's partner has used a payment or part of it to purchase an asset.

**18.** The value of the right to receive any income under a life interest or from a life rent.

**19.** The value of the right to receive any income which is disregarded under paragraph 15 of Schedule 3 or paragraph 28 of Schedule 4.

**20.** The surrender value of any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life.

**21.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

**22.** Any payment made by a local authority in accordance with section 12 of the Social Work (Scotland) Act 1968 (general social welfare services of local authorities), sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance) or sections 17, 23B, 23C or 24A of the Children Act 1989 (provision of services for children and their families and advice and assistance).

**23.—(1)** Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) or section 23C of the Children Act 1989 to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the applicant's care;
- (b) is aged 18 or over; and
- (c) continues to live with the applicant.

**24.** Any social fund payment made pursuant to Part 8 of the 1992 Act.

**25.** Any crisis payment made for the purpose of meeting an immediate short term need or a payment made for the purpose of meeting a need for community care—

- (a) by a local authority, in exercise of the power in section 20 of the Local Government in Scotland Act 2003(**313**) (power to advance well-being) and using funds provided by the Scottish Ministers from the Scottish Welfare Fund;
- (b) by a local authority in exercise of the power in section 1 of the Localism Act 2011(**314**) (local authority's general power of competence) and using funds provided by the Secretary of State, and in this sub-paragraph local authority means a local authority within the meaning of section 8 of that Act; or
- (c) by, or on behalf of, the Welsh Ministers in exercise of the power in section 60 of the Government of Wales Act 2006(**315**) (promotion etc. of well-being).

**26.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988(**316**) (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

**27.** Any capital which by virtue of regulation 40 (capital treated as income) or 59 (treatment of student loans) is to be treated as income.

**28.** Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

**29.**—(1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person's partner or former partner from whom the person is not, or where the person has died was not, estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved or, where the person has died, had not been dissolved at the time of the person's death;
- (b) any child who is a member of the person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of the person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and the person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and the person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;

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(**313**)[2003 asp 1](#).

(**314**)[2011 c.20](#).

(**315**)[2006 c.32](#).

(**316**)[1988 c.1](#). Section 369 was amended by section 58 of the Finance Act 1993 ([c.34](#)), section 81 of the Finance Act 1994 ([c.9](#)), paragraph 6 of Schedule 18 to the Finance Act 1996 ([c.8](#)), paragraph 4 of Schedule 4 to the Finance Act 1999 ([c.16](#)), section 83 of the Finance Act 2000 ([c.17](#)) and paragraph 33 of Schedule 1 to the Corporation Tax Act 2010 ([c.4](#)).

- (b) any child who is a member of the person's family or who was such a member and who is a member of the applicant's family; or
  - (c) any young person who is a member of the person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) the person has no partner or former partner from whom the person is not estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of the person's family; and
  - (b) the payment is made either—
    - (i) to the person's parent or step-parent; or
    - (ii) where the person at the date of the payment is a child, a young person or a student who has not completed full-time education and has no parent or step-parent, to the person's guardian,
- but only for a period from the date of the payment until the end of two years from the person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person at the date of death had no partner or former partner from whom the person was not estranged or divorced or with whom the person had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of the person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent; or
    - (ii) where that person at the relevant date was a child, a young person or a student who had not completed full-time education and had no parent or step-parent, to the person's guardian,
- but only for a period of two years from the person's death.
- (6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) and the London Bombings Relief Charitable Fund.

**30.—(1)** Where an applicant has ceased to occupy what was formerly the dwelling occupied as the applicant's home following estrangement or divorce from the applicant's former partner or dissolution of a civil partnership with the applicant's former partner, that dwelling for a period of 26 weeks from the date on which the applicant ceased to occupy it or, where the dwelling is occupied as a home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph “dwelling” includes any garage, garden and outbuildings pertaining to the home formerly occupied by the applicant and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, any croft land on which the dwelling is situated.

**31.** Any premises where the applicant is taking reasonable steps to dispose of the whole of the applicant's interest in those premises, for a period of 26 weeks from the date on which the applicant

first took those steps, or any longer period as is reasonable in the circumstances to enable the applicant to dispose of the premises.

**32.** Any premises which the applicant intends to occupy as the applicant's home, and in respect of which the applicant is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the earlier of the date on which the applicant first sought that advice or the date on which the applicant first commenced those proceedings, or any longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of those premises.

**33.** Any premises which the applicant intends to occupy as the applicant's home to which essential repairs or alterations are required in order to render them fit for occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or any longer period as is necessary to enable those repairs or alterations to be carried out.

**34.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**35.** The value of the right to receive an occupational or personal pension.

**36.** The value of any funds held under a personal pension scheme.

**37.** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

**38.** Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund.

**39.** Any payment made pursuant to section 2 of the Enterprise and New Towns (Scotland) Act 1990 or section 2 of the 1973 Act, but only for the period of 52 weeks beginning on the date of receipt of the payment.

**40.** Any payment in consequence of a reduction of council tax under section 13 or 80 of the Act<sup>(317)</sup> (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

**41.** Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988<sup>(318)</sup> or section 66 of the Housing (Scotland) Act 1988<sup>(319)</sup> (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(a) to purchase premises intended for occupation as the applicant's home; or

(b) to carry out repairs or alterations which are required to render premises fit for occupation as the applicant's home,

for a period of 26 weeks from the date on which the applicant received the grant or any longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of the premises as a home.

**42.** Any arrears of supplementary pension which is disregarded under paragraph 53 (supplementary armed forces pension) of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 (pensions

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<sup>(317)</sup>Section 13 was amended by paragraph 42 of Schedule 7 to the Local Government Act 2003 (c.26). Section 80 was amended by paragraph 176 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39).

<sup>(318)</sup>1988 c.50. Section 129 was amended by section 194 of, and Schedule 12 to, the Local Government and Housing Act 1989 (c.42) and S.I. 2003/986.

<sup>(319)</sup>Section 66 was amended by section 50 of the Housing (Scotland) Act 2001 (asp 10).

under the Personal Injuries (Civilians) Scheme 1983) or 55 (older armed forces pensions) of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

**43.—(1) Any payment or repayment made—**

- (a) under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(**320**) (travelling expenses and health service supplies);
- (b) under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(**321**) (travelling expenses and health service supplies); and
- (c) under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007(**322**) (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Scottish Ministers, the Secretary of State for Health or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

**44.** Any payment made to those persons entitled to receive benefits as determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988(**323**) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

**45.** Any payment made under Part 8A of the 1992 Act (entitlement to health in pregnancy grant).

**46.** Any payment made by the Scottish Ministers or the Secretary of State under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

**47.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(**324**) to assist disabled persons to obtain or retain employment despite their disability.

**48.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(**325**) to homeworkers assisted under the Blind Homeworkers' Scheme.

**49.—(1)** Subject to sub-paragraph (2), where an applicant satisfies the conditions in regulation 14(3) and (6) (conditions of entitlement to council tax reduction), the whole of the applicant's capital.

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(**320**)[S.S.I. 2003/460](#). Regulation 3 was amended by [S.S.I. 2004/102](#). Regulation 5 was amended by [S.S.I. 2011/55](#). Regulation 11 was amended by [S.S.I. 2004/166, 2006/142, 2006/183](#) and [2011/55](#).

(**321**)[S.I. 2003/2382](#). Regulation 5 was amended by [S.I. 2004/663, 2004/936, 2006/562, 2008/1697](#) and [2009/411](#). Regulation 6 was amended by [S.I. 2006/562](#) and [2006/675](#). Regulation 12 was amended by [S.I. 2004/696](#) and [2006/562](#).

(**322**)[S.I. 2007/1004](#). Regulation 5 was amended by [S.I. 2008/1879, 2008/2568](#) and [2009/709](#). Regulation 11 was amended by [S.I. 2009/1824](#).

(**323**)[1988 c.7](#). Section 13 was substituted by section 185 of the Health and Social Care (Community Health and Standards) Act 2003 ([c.43](#)).

(**324**)[1944 c.10](#).

(**325**)[1958 c.33](#). Section 3 was amended by section 195 of, and paragraph 6 of Schedule 23 to, the Local Government Act [1972 \(c.70\)](#), paragraph 134 of Schedule 27 to the Local Government (Scotland) Act [1973 \(c.65\)](#), paragraph 2 of Schedule 15 to the National Health Service (Scotland) Act [1978 \(c.29\)](#), section 102 of, and Schedule 17 to, the Local Government Act [1985 \(c.51\)](#), paragraph 49 of Schedule 13 to the Local Government etc. (Scotland) Act [1994 \(c. 39\)](#), paragraph 3 of Schedule 10 and Schedule 18 to the Local Government (Wales) Act [1994 \(c.19\)](#), and paragraph 19 of Schedule 1 to the National Health Service (Consequential Provisions) Act [2006 \(c.43\)](#). Section 3 was amended in relation to Scotland by Schedules 2 and 27 to the Local Government (Scotland) Act [1973 \(c.65\)](#). Section 3 was amended in relation to England and Wales by paragraph 6 of Schedule 23 to the Local Government Act [1972 \(c.70\)](#), Schedule 3 to the Local Authority Social Services Act [1970 \(c.42\)](#) and Schedule 30 to the Local Government Act [1972 \(c.70\)](#).

(2) Where in addition to satisfying the conditions in regulation 14(3) and (6) the applicant also satisfies the conditions in regulation 14(4) and (5) (entitlement to the maximum council tax reduction), sub-paragraph (1) does not have effect.

**50.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(**326**) or under Rule 128 of those Rules, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**51.—(1)** Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998(**327**) or by the Court of Protection;
- (b) which can only be disposed of by order or direction of one of those courts; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining the age of 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person is under the age of 18.

**52.** Any payment to the applicant as holder of the Victoria Cross or George Cross.

**53.** In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by the person for the purpose of establishing or carrying on the commercial activity in respect of which the assistance is or was received, but only for a period of 52 weeks from the date on which the sum was acquired.

**54.—(1)** Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of the applicant's family, or any council tax or water charges for which the applicant or member of the applicant's family is liable.

(3) For the purposes of sub-paragraph (2) "food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**55.—(1)** Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - (ii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or
  - (iii) regulations made under section 518 of the Education Act 1996; or
- (b) corresponding to an education maintenance allowance made pursuant to—

(**326**)**1907 c.51.** Relevantly amended by S.I. 1993/1956 and 1996/2167.

(**327**)S.I. 1998/3132. Rule 21.11 was substituted by S.I. 2007/2204.

- (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 49 of the Education (Scotland) Act 1980;
  - (b) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or
  - (c) regulations made under section 518 of the Education Act 1996,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).

**56.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

**57.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

**58.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—

- (a) the applicant;
- (b) the applicant's partner;
- (c) the applicant's deceased spouse or deceased civil partner; or
- (d) the applicant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

**59.—(1)** Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was acting in place of the diagnosed person's parents at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than the diagnosed person's partner) or a person who was a member of the diagnosed person's family (other than the diagnosed person's partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph(1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the latest of—

- (i) two years after that date; or
- (ii) on the day before the day the person ceases receiving full-time education; or
- (iii) on the day before the day the person attains the age of 20.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) a diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was acting in place of the diagnosed person's parents at the date of the diagnosed person's death; or
- (c) a member of a diagnosed person's family (other than the diagnosed person's partner) or a person who was a member of the diagnosed person's family (other than the diagnosed person's partner) at the date of the diagnosed person's death,

but only to the extent that the payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the latest of—
  - (i) two years after that date;
  - (ii) on the day before the day on which the person ceases receiving full-time education; or
  - (iii) on the day before the day the person attains the age of 20.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family; or
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who after death has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease; and

“trust payment” means a payment under a trust established out of funds provided by the Secretary of State in respect of persons who suffered from, or who are suffering from, variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions.

**60.** The amount of any payment, other than a war disablement pension, a war widow's pension or a war widower's pension to compensate for the fact that the applicant, the applicant's partner, the

applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner—

- (a) was a slave labourer or a forced labourer;
- (b) suffered property loss or suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.

**61.**—(1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or the applicant's partner relating to a service which is provided to develop or sustain the capacity of the applicant or the applicant's partner to live independently in their accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes in England a county council.

**62.** Any payment made under regulations made under section 12B of the Social Work (Scotland) Act 1968, section 57 of the Health and Social Care Act 2001 or sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care).

**63.** Any payment made to the applicant under regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

**64.** Any payment made to the applicant under regulations made under section 14F of the Children Act 1989 (special guardianship support services).

## SCHEDEULE 6

Regulation 93

### Savings provisions

**1.**—(1) Where, on 12th April 1995, a person was entitled to disability premium by virtue of paragraph 13(1)(b) of Schedule 1 to the 1992 Regulations the person is to be treated as entitled to disability premium by virtue of paragraph 10(1)(b) of Schedule 1 to these Regulations for so long as the person is incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the 1992 Act (incapacity for work).

(2) Where, on 12th April 1995, a person was entitled to disability premium by virtue of paragraph 13(1)(b) of Schedule 1 to the 1992 Regulations and in the period from 13th April 1995 to 1st October 1995 entitlement to that disability premium ceased, if—

- (a) for the period when that disability premium did not apply the person was incapable of work or was treated as incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the 1992 Act; and
- (b) any break in the period of incapacity did not exceed a period of 56 continuous days,

for so long as the person is incapable of work or is treated as incapable of work, the disability premium under 10(1)(b) of Schedule 1 to these Regulations is applicable in the person's case.

(3) Paragraphs (1) and (2) do not apply to a person who ceases to be incapable of work or ceases to be treated as incapable of work in accordance with the provisions of, and regulations made under Part 12A of the 1992 Act (incapacity for work) for a period of more than 56 continuous days.

(4) Where, in any period immediately preceding 13th April 1995, the circumstances mentioned in paragraph 13(6) of Schedule 1 to the 1992 Regulations, as in force on 12th April 1995, applied to a person to whom the disability premium was not applicable, that person is to be treated for the purposes of regulations 20(3)(e) (persons not entitled to council tax reduction: students) and 28(11)(g) (treatment of childcare charges) and paragraph 10(1)(b) (additional condition for the

disability premium) of Schedule 1 as if the person had been incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the 1992 Act (incapacity for work) throughout that period.

**2.—(1)** Where the higher pensioner premium was applicable to a person on 12th April 1995, or at any time during the 56 days immediately preceding that date, by virtue of paragraph 13(1)(a)(ii) of Schedule 1 to the 1992 Regulations<sup>(328)</sup>, as in force on that date, paragraph 10 of Schedule 1 to these Regulations, in so far as it applies to the person, applies subject to the modifications in subparagraph (2).

**(2)** The modifications are—

- (a) in paragraph 10(1)(a)(i), for the words “long-term incapacity benefit” where they first appear, substitute “an invalidity pension” and for the words “in the case of long-term incapacity benefit”, substitute “in the case of invalidity pension”;
- (b) in paragraph 10(1)(a)(ii) for the words “long-term incapacity benefit” substitute “invalidity pension”;
- (c) for paragraph 10(1)(b), substitute—
  - “(b) the circumstances of the applicant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (5) or, if the person was in Northern Ireland for the whole or part of that period, within one or more comparable Northern Irish provisions.”;
- (d) in paragraph 10(3), for the words “or to be incapable of work”, substitute “for the purposes of the provisions specified in that provision”;
- (e) for sub-paragraphs (6) and (7), substitute—
  - “(6) For the purposes of sub-paragraph (1)(b) the circumstances of an applicant fall within this sub-paragraph if—
    - (a) the applicant provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976<sup>(329)</sup> (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 31, 33 or 68 of the 1992 Act, provided that an adjudication officer has not determined the applicant is not incapable of work, or
    - (b) the applicant is in receipt of statutory sick pay within the meaning of Part 11 of the 1992 Act.”.

## **Interpretation**

**3.** In this Schedule “the 1992 Regulations” means the Council Tax Benefit (General) Regulations 1992<sup>(330)</sup>.

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(328)See S.I. 1996/207 and 1516, 1997/2863, 1998/563, 1999/2677, 2000/724, 2001/1029 and 2003/511.

(329)S.I. 1976/615 as relevantly amended by S.I. 2012/137.

(330)S.I. 1992/1814.

## SCHEDULE 7

Regulation 94

## Consequential amendments

**1.**—(1) The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992(**331**) are amended in accordance with this paragraph.

- (2) In regulation 1(2) (interpretation), after the definition of “chargeable amount” insert—  
““council tax reduction” means council tax reduction under the Council Tax Reduction (Scotland) Regulations 2012 or the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012;”.
- (3) In regulation 28A (matters not to be shown on demand notices) omit paragraph (b).
- (4) In paragraph 5 of Schedule 2 (contents of demand notices)—
  - (a) for sub-paragraph (iii) substitute—  
“(iii) council tax reduction”;
  - (b) in sub-paragraph (vi) for “benefit” where it appears for the second time substitute “reduction”; and
  - (c) after sub-paragraph (vi) insert—  
“(vii) any excess council tax reduction being recovered otherwise than by allowing, for the purpose of calculating the total amount payable under the notice, a smaller amount of council tax reduction than would have been applicable but for the excess council tax reduction;”.
- (5) For paragraph 8(a)(iv) of Schedule 2 substitute—  
“(iv) a person may be entitled to council tax reduction;”.

**2.** In the Council Tax (Reductions for Disabilities) (Scotland) Regulations 1992(**332**), in regulation 4(2)(b) (calculation of amount payable) for “council tax benefit” substitute “council tax reduction under the Council Tax Reduction (Scotland) Regulations 2012 or the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012”.

**3.** In the Council Tax (Alteration of Lists and Appeals) (Scotland) Regulations 1993(**333**), in regulation 21 (appeals in relation to estimates or benefit matters) omit—

“; or

- (b) the calculation of an amount payable as council tax fails to take proper account of the provisions of the Council Tax Benefit (General) Regulations 1992.”.

**4.** In the Council Tax (Reduction of Liability) (Scotland) Regulations 1994(**334**), for regulation 4(c) (calculation of amount payable) substitute—

- “(c) the Council Tax Reduction (Scotland) Regulations 2012;
- (ca) the Council Tax Reduction State Pension Credit) (Scotland) Regulations 2012;”.

**5.** In the Council Tax (Administration and Enforcement) (Scotland) Amendment Regulations 1996(**335**), omit regulation 18 (regulation 28A of the principal Regulations).

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(**331**)[S.I. 1992/1332](#), to which there are amendments not relevant to these Regulations.

(**332**)[S.I. 1992/1335](#), to which there are amendments not relevant to these Regulations.

(**333**)[S.I. 1993/355](#), to which there are amendments not relevant to these Regulations.

(**334**)[S.I. 1994/3170](#), to which there are amendments not relevant to these Regulations.

(**335**)[S.I. 1996/430](#).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for a reduction in liability for council tax (“council tax reduction”) for persons who have not reached the qualifying age for state pension credit and for persons who have reached that age and receive income support or income-based jobseeker’s allowance. (Provision relating to a reduction in liability for council tax reduction for those who have reached the qualifying age for state pension credit and do not receive those benefits is contained in the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.)

Part 1 of the Regulations contains general provisions (regulations 2 to 6).

Part 2 deals with families. Regulation 7 provides that only one member of a family can be entitled to council tax reduction. Regulation 9 provides that where an applicant for council tax reduction is in receipt of an income related benefit the income and capital of all family members is to be treated as the income and capital of the applicant. Regulation 10 describes the situation where a person is to be treated as responsible for another person. Regulation 11 describes the situations where a person is to be treated as being a member of a household.

In Part 3, regulation 12 describes the persons to whom the Regulations apply and regulation 13 provides that the Regulations apply to the financial year commencing 1st April 2013 and each subsequent financial year.

In Part 4, regulation 14 describes the conditions of entitlement to council tax reduction and regulations 15 to 20 describe the categories of persons who are not entitled to council tax reduction. These are absentees from the dwelling (regulation 15), persons treated as not in Great Britain (regulations 16 to 18), persons subject to immigration control (regulation 19) and students (regulation 20).

Part 5 (regulations 21 to 23) and Schedule 1 provide for the calculation of the applicable amount, which is a sum representing the needs of the applicant and the applicant’s family.

Part 6 has provision for the calculation of income and capital.

- Chapter 1 provides for the income of persons other than the applicant to be treated as the applicant’s (regulations 24 and 25). Chapter 2 deals with the calculation of income and capital for persons in receipt of universal credit (regulation 26). Chapter 3 sets out how income should be calculated for the purpose of calculating entitlement to council tax reduction (regulations 27 to 33). Chapter 4 deals with the income of employed earners (regulations 34 and 35) and chapter 5 with the income of self-employed earners (regulations 36 to 38). Schedule 3 sets out the sums to be disregarded when calculating earnings. Chapter 6 deals with other types of income; regulation 39 deals with income other than earnings, regulation 40 with capital to be treated as income and regulation 41 with notional income. Schedule 4 sets out the sums to be disregarded when calculating income other than earnings.
- Chapter 7 has provision for the calculation of capital (regulations 42 to 51) and Schedule 5 describes capital that is to be disregarded.

Part 7 provides for the treatment of students. Chapter 1 has general provision for students (regulations 52 and 53) and chapter 2 deals with the calculation of the income of students (regulations 54 to 65).

Part 8 sets out the formula for calculating the maximum amount of council tax reduction to which a person is entitled (regulation 66). It also provides for an extended period of entitlement of up to 4

weeks in specified circumstances (regulations 68 to 77). Regulation 78 and Schedule 2 describe the situation where the alternative maximum council tax reduction applies.

Part 9 deals with when entitlement to council tax reduction begins and when a change in entitlement as a result of a change in circumstances take effect (regulations 80 and 81).

Part 10 deals with the application process. Regulation 82 describes who may apply and regulations 83 to 88 provide for other aspects of the process, including the form of applications and withdrawal of applications.

Part 11 provides for a duty to notify the relevant authority of a change of circumstances (regulations 89 and 90).

Part 12 allows for the sending of documents by electronic communication (regulation 91).

Part 13 contains transitional provision (regulation 92), savings provision (regulation 93 and Schedule 6) and consequential amendments (regulation 94 and Schedule 7).