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*This file is revoked by 2012/2785, but kept in force for transitional purposes.*

## 1992 No. 1815

### FAMILY LAW CHILD SUPPORT

#### The Child Support (Maintenance Assessments and Special Cases) Regulations 1992

*Made* - - - - 20th July 1992  
*Coming into force* - - 5th April 1993

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Whereas a draft of this instrument was laid before Parliament in accordance with section 52(2) of the Child Support Act 1991(a) and approved by a resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by sections 42,43, 51, 52(4) and 54(b) of, and paragraphs 1,2 and 4 to 9 of Schedule 1 to, the Child Support Act 1991 and of all other powers enabling him in that behalf hereby makes the following Regulations;

## PART I GENERAL

### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 and shall come into force on 5th April 1993.

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

“the Act” means the Child Support Act 1991;

▶<sup>1</sup>“care home” has the meaning assigned to it by section 3 of the Care Standards Act 2000;◀

▶<sup>2</sup>“care home service” has the meaning assigned to it by paragraph 2 of Schedule 12 to the Public Services Reform (Scotland) Act 2010;◀

▶<sup>3</sup>“Child Benefit Rates Regulations” means the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1996(c);◀

▶<sup>4</sup>“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;◀

“claimant” means a claimant for income support;

<sup>1</sup>Defns. of “care home” inserted by reg. 4(2)(c) of S.I. 2003/2779 as from 5.11.03.

<sup>2</sup>Defn. of “care home service” inserted by art. 18 of Sch. 2 to S.I. 2011/2581 as from 28.10.11.

<sup>3</sup>Defn. “Child Benefit Rates Regulations” inserted by reg. 7 of S.I. 1996/1803 as from 7.4.97.

<sup>4</sup>Defn. of “child tax credit” inserted by reg. 6(2)(a) of S.I. 2003/328 as from 6.4.03.

(a) 1991 c. 48.

(b) Section 54 is cited because of the meaning ascribed to the word “prescribed”.

(c) S.I. 1996/1267 is amended by S.I. 1977/1378, 1980/110, 1991/502, 1993/965, 1995/559 and 1996/1803.

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▶<sup>1</sup>“clinical commissioning group” means a body established under section 14D of the National Health Service Act 2006;◀

▶<sup>2</sup>“contribution-based jobseeker’s allowance” means an allowance under the Jobseekers Act as amended by the provisions of Part 1 of Schedule 14 to the Welfare Reform Act 2012 that remove references to an income-based allowance, and a contribution-based allowance under the Jobseekers Act as that Act has effect apart from those provisions;◀

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

▶<sup>3</sup>“Contributions and Benefits (Northern Ireland) Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b);◀

“council tax benefit” has the same meaning as in the Local Government Finance Act 1992(c);

▶<sup>4</sup>“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and 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 paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;◀

“course of advanced education” means

- (a) a full-time course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a Diploma of Higher Education, a higher national diploma, a higher national diploma or higher national certificate of the Business and ▶<sup>5</sup>Technology◀ Education Council or the Scottish Vocation Education Council or a teaching qualification; or
- (b) any other full-time course which is a course of a standard above that of an ordinary national diploma, a national diploma or national certificate of the Business and ▶<sup>5</sup>Technology◀ Education Council or the Scottish Vocational Education Council, the advanced level of the General Certificate of Education, Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies;

“covenant income” means the gross income payable to a student under a Deed of Covenant by a parent;

“day” includes any part of a day;

▶<sup>6</sup>“day to day care” means—

- (a) care of not less than 104 nights in total during the 12 month period ending with the relevant week; or
- (b) where, in the opinion of the ▶<sup>7</sup>Secretary of State, a period other than 12 months◀ is more representative of the current arrangements for the care of the child in question, care during that period of not less in total than the number of nights which bears the same ratio to 104 nights as that period bears to 12 months,

and for the purpose of this definition—

- (i) where a child is a boarder at a boarding school, or is an in-patient in a hospital, the person who, but for those circumstances, would otherwise provide day to day care of the child shall be treated as providing day to day care during the periods in question;
- ▶<sup>8</sup>(ii) in relation to an application for child support maintenance, “relevant week” shall have the meaning ascribed to it in head(ii) of sub-paragraph (a) of the definition of “relevant week” in this paragraph;◀
- ▶<sup>9</sup>(iii) in a case where notification is given under regulation 24 of the Maintenance Assessment Procedure Regulations to the relevant persons on different dates, “relevant week” means the period of seven days immediately preceding the date of the latest notification;◀◀

(a) 1992 c. 4.  
 (b) 1993 c. 48.  
 (c) 1992 c. 14

<sup>1</sup>Defn. of “clinical commissioning group” inserted by para. 20(2)(a) to Sch. 2 of S.I. 2013/235 as from 1.4.13.

<sup>2</sup>Defn. of “contribution-based jobseeker’s allowance” inserted by reg. 41(2)(a) of S.I. 2013/630 as from 29.4.13.

<sup>3</sup>Defn. of “Contributions and Benefits (Northern Ireland) Act” inserted by reg. 10(2)(b) of S.I. 1996/3196 as from 13.1.97.

<sup>4</sup>Defn. of “couple” substituted by para. 2(2)(a) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

<sup>5</sup>Word in defn. of “course of advanced education” substituted by reg. 19(2)(a) of S.I. 1993/913 as from 5.4.93.

<sup>6</sup>Defn. of “day to day care” substituted by reg. 41(2)(i) of S.I. 1995/1045 as from 18.4.95.

<sup>7</sup>Words substituted in defn. of “day to day care” by art. 14(1)(a)(i) of S.I. 1999/1510 as from 1.6.99.

<sup>8</sup>Sub-para. (ii) substituted for sub-para (ii) of defn. of “day to day care” in reg. 1(2) by reg. 40(2)(a) of S.I. 1995/3261 as from 22.1.96, subj. to reg. 57(3) *ibid.* (change in amount of assessment not effective before 22.1.96).  
<sup>9</sup>Heads (iii) & (iv) substituted for head (iii) by art. 14(1)(a)(ii) of S.I. 1999/1510 as from 1.6.99.

## Reg. 1

<sup>1</sup>Defn. of “Departure Direction & Consequential Amendments Regulations” revoked by reg. 30 of S.I. 1998/58 as from 19.1.98.

<sup>2</sup>Defn. of “disabled person’s tax credit” omitted by reg. 6(2)(b) of S.I. 2003/328 as from 6.4.03.

<sup>3</sup>Words substituted in defn. of “earnings” by reg. 6(2)(a) of S.I. 1999/977 as from 4.10.99.

<sup>4</sup>Defns. inserted by reg. 18(2) of S.I. 1996/1945 as from 7.10.96.

<sup>5</sup>Words added to defn. of “employed earner” by reg. 42(2)(b) of S.I. 1998/58 as from 19.1.98.

<sup>6</sup>Defn. of “family” substituted by reg. 18(3) of S.I. 1996/1945 as from 7.10.96.

<sup>7</sup>In defn. of “family” words substituted by para. 2(2)(b) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

<sup>8</sup>Defn of “family credit” omitted by reg. 6(2)(b) of S.I. 2003/328 as from 6.4.03.

<sup>9</sup>Words substituted in defn. of “home” by reg. 4(2)(a) of S.I. 2003/2779 as from 5.11.03.

<sup>10</sup>Words substituted in defn. of “home” by art. 14(1)(b) of S.I. 1999/1510 as from 1.6.99.

▶<sup>1</sup>◀

▶<sup>2</sup>◀

“earnings” has the meaning signed to it by paragraph ▶<sup>3</sup>1, 2A or 3◀, as the case may be, of Schedule 1;

▶<sup>4</sup>“earnings top-up” means the allowance paid by the Secretary of State under the rules specified in the Earnings Top-up Scheme;

“The Earnings Top-up Scheme” means the Earnings Top-up Scheme 1996(a);◀

“effective date” means the date on which a maintenance assessment takes effect for the purposes of the Act;

“eligible housing costs” shall be construed in accordance with Schedule 3;

“employed earner” has the same meaning as in section 2(1)(a) of the Contributions and Benefits Act; ▶<sup>5</sup>except that it shall include a person gainfully employed in Northern Ireland◀

▶<sup>6</sup>“family” means—

(a) ▶<sup>7</sup>a couple◀ (including the members of a polygamous marriage);

(b) ▶<sup>7</sup>a couple◀ (including the members of a polygamous marriage) and any child or children living with them for whom at least one member of that couple has day to day care;

(c) where a person who is not a member of ▶<sup>7</sup>a couple◀ has day to day care of a child or children, that person and any such child or children;

and for the purposes of this definition a person shall not be treated as having day to day care of a child who is a member of that person’s household where the child in question is being looked after by a local authority within the meaning of section 22 of the Children Act 1989(b) or, in Scotland, where the child is boarded out with that person by a local authority under the provisions of section 21 of the Social Work (Scotland) Act 1968(c);◀

▶<sup>8</sup>◀

“grant” means any kind of educational grant or award and includes any scholarship, exhibition, allowance or bursary but does not include a payment made under section 100 of the Education Act 1944(d) or section 73 of the Education (Scotland) Act 1980(e);

“grant contribution” means any amount which a Minister of the Crown or an education authority treats as properly payable by another person when assessing the amount of a student’s grant and by which that amount is, as a consequence, reduced;

“home” means—

(a) the dwelling in which a person and any family of his normally live; or

(b) if he or they normally live in more than one home, the principal home of that person and any family of his,

and for the purpose of determining the principal home in which a person normally lives no regard shall be had to residence in ▶<sup>9</sup>a care home or an independent hospital or to the provision of a care home service or an independent health care service◀ during a period which does not exceed 52 weeks or, where it appears to the ▶<sup>10</sup>Secretary of State◀ that the person will return to his principal home after that period has expired, such longer period as ▶<sup>10</sup>the Secretary of State◀ considers reasonable to allow for the return of that person to that home;

“housing benefit” has the same meaning as in section 130 of the Contributions and Benefits Act;

(a) This Scheme, which applies only in certain parts of Great Britain, is an extra-statutory Scheme, introduced by the Secretary of State for Social Security, having effect on 8th October 1996. Copies of the rules of this Scheme may be obtained from the Customer Services Manager, Earnings Top-up, Norcross, Blackpool FY5 3TA.

(b) 1989 c. 41.

(c) 1968 c. 49.

(d) 1944 c. 31.

(e) 1980 c. 44.

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- ▶<sup>1</sup>“Housing Benefit Regulations” means the Housing Benefit Regulations 2006; “Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006; ◀
- “Income Support Regulations” means the Income Support (General) Regulations 1987(a);
- ▶<sup>2</sup>“independent health care service” has the meaning assigned to it by section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978; ◀
- ▶<sup>3</sup>“independent hospital” has the meaning assigned to it by section 2 of the Care Standards Act 2000; ◀
- ▶<sup>4</sup>“Independent Living (1993) Fund” means the charitable trust of that name established by a deed made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part; “Independent Living (Extension) Fund” means the charitable trust of that name established by a deed made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part; ◀
- ▶<sup>5</sup>“the Jobseekers Act” means the Jobseekers Act 1995(b) ◀
  - “Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(c);
  - ▶<sup>6</sup> ◀
  - “non-dependant” means a person who is non-dependant for the purposes of either—
    - (a) regulation 3 of the Income Support Regulations; or
    - ▶<sup>1</sup>(b) regulation 3 of the Housing Benefit Regulations or, as the case may be, regulation 3 of the Housing Benefit (State Pension Credit) Regulations; ◀
 or who would be a non-dependant for those purposes if another member of the household in which he is living were entitled to income support or housing benefit as the case may be;
  - ▶<sup>7</sup> ◀
  - “occupational pension scheme” has the same meaning as in ▶<sup>8</sup>section 1 of the Pension Schemes Act 1993(d) ◀
  - “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;
  - “parent with care” means a person who, in respect of the same child or children, is both a parent and a person with care;
  - “partner” means—
    - (a) in relation to a member of ▶<sup>6</sup>a couple ◀ who are living together, the other member of that couple;
    - (b) in relation to a member of a polygamous marriage, any other member of that marriage with whom he lives;
  - “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a young offender institution within the meaning of the Criminal Justice Act 1982(e) as amended by the Criminal Justice Act 1988(f) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(g);
  - “person” does not include a local authority;

<sup>1</sup>Defn. of “Housing Benefit Regulations” substituted, defn. of “Housing Benefit (SPC)” inserted and sub-para. (b) of defn. of “non-dependant” substituted by reg. 4(2)(a)-(c) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>2</sup>Defn. of “independent health care service” inserted by para. 18(b) of Sch. 2 to S.I. 2011/2581 as from 28.10.11.

<sup>3</sup>Defn. of “independent hospital” inserted by reg. 4(2)(d) of S.I. 2003/2779 as from 5.11.03.

<sup>4</sup>Defns. inserted by reg. 19(2)(c) of S.I. 1993/913 as from 5.4.93.

<sup>5</sup>Defn. of “the Jobseekers Act” inserted in reg. 1(2) by reg. 6(2) of S.I. 1996/1345 as from 7.10.96.

<sup>6</sup>Defn. of “married couple” omitted & words in defn. of “partner” substituted by para. 2(2)(c) & (d) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

<sup>7</sup>Defn. of “nursing home” omitted by reg. 4(2)(b) of S.I. 2003/2779 as from 5.11.03.

<sup>8</sup>Words in defn. of “occupational pension scheme” substituted by reg. 42(2)(d) of S.I. 1998/58 as from 19.1.98.

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(a) S.I. 1987/1967; the relevant amending instruments are S.I. 1988/663, 1228, 1445, 2022; 1989/534, 1034, 1678, 1990/547, 1168, 1776; 1991/236, 387, 503, 1559.

(b) 1995 c. 18.

(c) S.I. 1992/1813.

(d) 1993 c. 48.

(e) 1982 c. 48.

(f) 1988 c. 33.

(g) S.I. 1975/555; the relevant amending instruments are S.I. 1977/1693 and 1987/1683.



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<sup>1</sup>Words substituted in defn. of “personal pension schemes” by reg. 10(2)(h) of S.I. 1996/3196 as from 13.1.97.

<sup>2</sup>Defn. of “primary care trust” omitted by art. 20(2)(b) of S.I. 2013/235 as from 1.4.13.

<sup>3</sup>Defn. of “profit-related pay” inserted by reg. 10(2)(d) of S.I. 1996/3196 as from 13.1.97.

<sup>4</sup>Defn. of “qualifying transfer” inserted by reg. 41(2)(ii) of S.I. 1995/1045 as from 18.4.95.

<sup>5</sup>Defn. of “relevant week” substituted by art. 14(1)(c) of S.I. 1999/1510 as from 1.6.99.

“personal pension scheme” has the same meaning as in <sup>1</sup>section 1 of the Pension Schemes Act 1993(a) and, in the case of as a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(b);

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and in respect of which any ceremony of marriage took place under the law of a country which at the time of that ceremony permitted polygamy;

“prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person whose detention is under the Mental Health Act 1983(c) or the Mental Health (Scotland) Act 1984(d);

▶<sup>2</sup>◀

▶<sup>3</sup>“profit related pay” means any payment by an employer calculated by reference to actual or anticipated profits;◀

▶<sup>4</sup>“qualifying transfer” has the meaning assigned to it in Schedule 3A;◀

“relevant child” means a child of an absent parent or a parent with care who is a member of the same family as that parent;

“relevant Schedule” means Schedule 2 to the Income Support Regulations (income support applicable amounts);

▶<sup>5</sup>“relevant week” means—

(a) in relation to an application for child support maintenance—

(i) in the case of the applicant, the period of seven days immediately preceding the date on which the appropriate maintenance assessment application form (being an effective application within the meaning of regulation 2(4) of the Maintenance Assessment Procedure Regulations) is submitted to the Secretary of State;

(ii) in the case of a person to whom a maintenance assessment enquiry form is given or sent as the result of such an application, the period of seven days immediately preceding the date on which that form is given or sent to him or, as the case may be, the date on which it is treated as having been given or sent to him under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;

(b) where a decision (“the original decision”) is to be—

(i) revised under section 16 of the Act; or

(ii) superseded by a decision under section 17 of the Act on the basis that the original decision was made in ignorance of, or was based upon a mistake as to some material fact or was erroneous in point of law,

the period of seven days which was the relevant week for the purposes of the original decision;

(c) where a decision (“the original decision”) is to be superseded by a decision under section 17 of the Act—

(i) on an application made for the purpose on the basis that a material change of circumstances has occurred since the original decision was made, the period of seven days immediately preceding the date on which that application was made;

(ii) subject to paragraph (b), in a case where a relevant person is given notice under regulation 24 of the Maintenance Assessment Procedure Regulations(e), the period of seven days immediately preceding the date of that notification;

except that where, under paragraph 15 of Schedule 1 to the Act, the Secretary of State makes separate maintenance assessments in respect of different periods in a particular case, because he is aware of one or more changes of circumstances which occurred after the date which is applicable to that case under paragraph (a), (b) or (c) the relevant

(a) 1993 c. 48.

(b) 1988 c. 1.

(c) 1983 c. 20.

(d) 1984 c. 36.

(e) Regulation 24 was added by S.I. 1999/1047.

week for the purposes of each separate assessment made to take account of each such change of circumstances, shall be the period of seven days immediately preceding the date on which notification was given to the Secretary of State of the change of circumstances relevant to that separate maintenance assessment;◀

▶<sup>1</sup>◀

“retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium;

“self-employed earner” has the same meaning as in section 2(1)(b) of the Contributions and Benefits Act ▶<sup>2</sup>except that it shall include a person gainfully employed in Northern Ireland otherwise than in employed earner’s employment (whether or not he is also employed in such employment) ◀;

▶<sup>3</sup>“state pension credit” means the social security benefit of that name payable under the State Pension Credit Act 2002;◀

“student” means a person, other than a person in receipt of a training allowance, who is aged less than 19 and attending a full-time course of advanced education or who is aged 19 or over and attending a full-time course of study at an educational establishment; and for the purposes of this definition—

- (a) a person who has started on such a course shall be treated as attending it throughout any period of term or vacation within it, until the last day of the course or such earlier date as he abandons it or is dismissed from it;
- (b) a person on a sandwich course (within the meaning of paragraph 1(1) of Schedule 5 to the ▶<sup>4</sup>Education (Mandatory Awards) (No. 2) Regulations 1993◀(a) shall be treated as attending a full-time course of advanced education or, as the case may be, of study;

*Relevant extracts from the said para. 1(1) of Sch. 5 to S.I. 1993/2914, as later re-enacted, are reproduced at Annex 2 to this S.I.*

“student loan” means a loan which is made to a student pursuant to arrangements made under section 1 of the Education (Student Loans) Act 1990(b);

▶<sup>5</sup>◀

“training allowance” has the same meaning as in regulation 2 of the Income Support Regulations;

▶<sup>6</sup>“universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012;◀

▶<sup>7</sup>◀

“weekly council tax” means the annual amount of the council tax in question payable in respect of the year in which the effective date falls, divided by 52;

▶<sup>8</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007;◀

▶<sup>9</sup>“work-based training for young people or, in Scotland, Skillseekers training”◀ means—

- (a) arrangements made under section 2 of the Employment and Training Act 1973(c) or section 2 of the Enterprise and new towns (Scotland) Act 1990(d); or
- (b) arrangements made by the Secretary of State for persons enlisted in Her Majesty’s forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966(e) (power of Defence Council to make regulation as to engagement of persons in regular forces);

for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.

<sup>1</sup>Defn. of “residential care home” omitted by reg. 4(2)(b) of S.I. 2003/2779 as from 5.11.03.

<sup>2</sup>Words added to defn. of “self-employed earner” by reg. 42(2)(e) of S.I. 1998/58 as from 19.1.98.

<sup>3</sup>Defn. of “state pension credit” inserted by reg. 4(2)(e) of S.I. 2003/2779 as from 5.11.03.

<sup>4</sup>Words in defn. of “student” substituted by reg. 4(2)(ii) of S.I. 1995/1045 as from 18.4.95.

<sup>5</sup>Defn. of “Independent Living Fund” deleted by reg. 19(2)(e) of S.I. 1993/913 as from 5.4.93.

<sup>6</sup>Defn. of “universal credit” inserted by reg. 41(2)(b) of S.I. 2013/630 as from 29.4.13.

<sup>7</sup>Defn. of “unmarried couple” omitted by para. 2(2)(c) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

<sup>8</sup>Defn. of “the Welfare Reform Act” inserted in reg. 1 by reg. 58(2) of S.I. 2008/1554 as from 27.7.08.

<sup>9</sup>Defn. of “youth training” substituted by reg. 6(2)(b) of S.I. 1999/977 as from 6.4.99.

(a) S.I. 1993/2914.

(b) 1990 c. 6; section 1 is amended by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9.

(c) 1973 c. 50; section 2 is substituted by the Employment Act 1988 (c. 19), section 25(1).

(d) 1990 c. 35.

(e) 1966 c. 45.

## Reg. 1

<sup>1</sup>Defn. of “working tax credit” substituted for “working families’ tax credit” by reg. 6(2)(c) of S.I. 2003/328 as from 6.4.03.

<sup>2</sup>Reg. 1(2A) inserted by reg. 19(3) of S.I. 1993/913 as from 5.4.93.

<sup>3</sup>Words inserted in reg. 1(2A) by reg. 10(3)(a) of S.I. 1996/3196 as from 13.1.97.

<sup>4</sup>Words inserted in reg. 1(2A) and words substituted in reg. 1(2A)(a) by reg. 41(3)(a) and (b) respectively of S.I. 1995/1045 as from 18.4.95.

<sup>5</sup>Words inserted in reg. 1(2A)(a) by reg. 42(3) of S.I. 1998/58 as from 19.1.98.

<sup>6</sup>Words “or personal” deleted and words substituted in reg. 1(2A)(c) by reg. 41(3)(c) of S.I. 1995/1045 as from 18.4.95.  
<sup>7</sup>Reg. 1(2A)(d) and (e) added by reg. 41(3)(d) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

▶<sup>1</sup>“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002; ◀

“year” means a period of 52 weeks;

▶<sup>2</sup>(2A) Where any provision of these Regulations requires the income of a person to be estimated and that or any other provision of these Regulations requires that the amount of such estimated income is to be taken into account for any purposes after deducting from it a sum in respect of income tax or of primary Class 1 contributions under the Contributions and Benefits Act ▶<sup>3</sup>or, as the case may be, the Contributions and Benefits (Northern Ireland) Act; ◀ or of contributions paid by that person towards an occupational or personal pension scheme, then ▶<sup>4</sup>subject to sub-paragraph (e)◀–

- (a) the amount to be deducted in respect of income tax shall be calculated by applying to that income the rates of income tax applicable at the ▶<sup>4</sup>relevant week◀ less only the personal relief to which that person is entitled under Chapter I of Part VII of the Income and Corporation Taxes Act 1988(a) (personal relief); but if the period in respect of which that income is to be estimated is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis; ▶<sup>5</sup>and the amount of income to which each tax rate applies shall be determined on the basis that the ratio of that amount to the full amount of the income to which each tax rate applies is the same as the ratio of the proportionate part of that personal relief to the full personal relief ◀
- (b) the amount to be deducted in respect of Class 1 contributions under the Contributions and Benefits Act ▶<sup>3</sup>or, as the case may be, the Contributions and Benefits (Northern Ireland) Act; ◀ shall be calculated by applying to that income the appropriate primary percentage applicable in the relevant week; and
- (c) the amount to be deducted in respect of contributions paid by that person towards an occupational ▶<sup>6</sup>◀ pension scheme shall be one-half of the sums so ▶<sup>6</sup>paid; and◀
- ▶<sup>7</sup>(d) the amount to be deducted in respect of contributions towards a personal pension scheme shall be one half of the contributions paid by that person or, where that scheme is intended partly to provide a capital sum to discharge a mortgage secured on that person’s home, 37.5 per centum of those contributions;
- (e) in relation to any bonus or commission which may be included in that person’s income–
  - (i) the amount to be deducted in respect of income tax shall be calculated by applying to the gross amount of that bonus or commission the rate or rates of income tax applicable in the relevant week;

(a) 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), s. 9(9).



- (ii) the amount to be deducted in respect of primary class 1 contributions under the Contributions and Benefits Act <sup>1</sup>or, as the case may be, the Contributions and Benefits (Northern Ireland) Act; <sup>2</sup> shall be calculated by applying to the gross amount of that bonus or commission the appropriate main primary percentage applicable in the relevant week <sup>3</sup>but no deduction shall be made in respect of the portion (if any) of the bonus or commission which, if added to estimated income, would cause such income to exceed the upper earnings limit for Class 1 contributions as provided for in section 5(1)(b) of the contributions and Benefits Act <sup>4</sup>or, as the case may be, the Contributions and Benefits (Northern Ireland) Act; <sup>5</sup> and
- (iii) the amount to be deducted in respect of contributions paid by that person in respect of the gross amount of that bonus or commission towards an occupational pension scheme shall be one half of any sum so paid.
- <sup>5</sup>(2B) For the purposes of these Regulations, where a person has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit) for payments of child benefit not to be made—
- (a) that person is to be treated as being in receipt of child benefit; and
- (b) the amount of child benefit that would be otherwise paid in respect of the relevant child is to be treated as being in payment.
- (3) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered Part is to the Part of these Regulations bearing that number;
- (b) to a numbered Schedule is to the Schedule to these Regulations bearing that number;

<sup>1</sup>Words inserted in reg. 1(2A)(e)(ii) by reg. 10(3)(a) of S.I. 1996/3196 as from 13.1.97.

<sup>2</sup>Words omitted in reg. 1(2A)(e)(ii) by reg. 10(3)(b) of S.I. 1995/3196 as from 13.1.97.

<sup>3</sup>Words in reg. 1(2A)(e)(ii) inserted by reg. 40(3) of S.I. 1995/3261 as from 22.1.96 or, if an assessment is then in force, as from when it is next reviewed (reg. 57(1) *ibid.*), subj. in either case to reg. 57(3) *ibid.* (change in amount of assessment not effective before 22.1.96).

<sup>4</sup>Words inserted in reg. 1(2A)(e)(ii) by reg. 10(3)(a) of S.I. 1996/3196 as from 13.1.97.

<sup>5</sup>Reg. 1(2B) inserted by reg. 3 of S.I. 2013/1517 as from 30.9.13.



- (c) to a numbered regulation it to the regulation in these Regulations bearing that number;
- (d) in a regulation or Schedule to a numbered paragraph it to the paragraph in that regulation or Schedule bearing that number;
- (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(4) ► These Regulations are subject to the provisions of Parts VIII and IX of the Departure Direction and Consequential Amendments Regulations and ◀ the regulations in Part II and the provisions of the Schedules to these Regulations are subject to the regulations relating to special cases in Part III. ◀

Words inserted in reg. 1(4) by reg. 68(3) of S.I. 1996/2907 as from 2.12.96.

## PART II

### CALCULATION OR ESTIMATION OF CHILD SUPPORT MAINTENANCE

#### Calculation or estimation of amounts

2.—(1) Where any amount ► is to be considered in connection with any calculation made under these Regulations ◀, it shall be calculated or estimated as a weekly amount and, except where the context otherwise requires, any reference to such an amount shall be construed accordingly.

Words in reg. 2(1) substituted by reg. 43 of S.I. 1998/58 as from 19.1.98.

(2) Subject to ► regulations 11(6) and (7) and 13(2) and ► regulation 8A(5) ◀ of the Maintenance Assessment Procedure Regulations ◀, where any calculation made under ► the Act or ◀ these Regulations results in a fraction of a penny that fraction shall be treated as a penny if it is either one half or exceeds one half, otherwise it shall be disregarded.

Words substituted in reg. 2(2) by reg. 42 of S.I. 1995/1045 as from 18.4.95.

Words in reg. 2(2) substituted (immediately after being amended by reg. 41 of S.I. 1995/3261) by reg. 3 of S.I. 1995/3265 as from 22.1.96.

(3) ► The Secretary of State ◀ shall calculate the amounts to be taken into account for the purposes of these Regulations by reference, as the case may be, to the dates, weeks, months or other periods specified herein provided that if he becomes aware of a material change of circumstances occurring after such date, week, month or other period but before the effective date, he shall take that change of circumstances into account.

Words inserted in reg. 2(2) by reg. 42 of S.I. 1995/1045 as from 18.4.95.

#### Calculation of AG

3.—(1) The amounts to be taken into account for the purposes of calculating AG in the formula set out in paragraph 1(2) of Schedule 1 to the Act are—

Words substituted in reg. 2(3) by art. 15 of S.I. 1999/1510 as from 1.6.99.

- (a) with respect to each qualifying child, an amount equal to the amount specified in column (2) of paragraph 2 of the relevant Schedule for a person of the same age (income support personal allowance for child or young person);
- (b) with respect to a person with care of one or more qualifying children—
  - (i) where one or more of those children is aged less than 11, an amount equal to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25);
  - (ii) where no one of those children are aged less than 11 but one or more of them is aged less than 14, an amount equal to 75 per centum of the amount specified in head (i) above; and
  - (iii) where no one of those children are aged less than 14 but one or more of them is aged less than 16, an amount equal to 50 per centum of the amount specified in head (i) above; ◀
- (c) an amount equal to the amount specified in paragraph 3(1)(b) of the relevant Schedule. ◀

Reg. 3(1)(b) substituted by reg. 4(2) of S.I. 1994/227 as from 7.2.94.

Reg. 3(1)(c) substituted by reg. 44 of S.I. 1998/58 as from 6.4.98.

(a) S.I. 1976/1267; the relevant amending instruments are S.I. 1977/1328, 1991/502, 543, 1595.

*Reproduced below is reg. 3(1)(c) substituted by reg. 8(a) of S.I. 1996/1803 and applies from 7.4.97 to 5.4.98.*

►(c) an amount equal to-

- (i) the amount specified in paragraph 3(b) of the relevant Schedule; or
- (ii) where the person with care is a lone parent as defined in regulation 2(1) of the Income Support Regulations, the amount specified in paragraph 3(a) of the Schedules◄

Reg. 3(1)(d) omitted by reg. 8(b) of S.I. 1996/1803 as from 7.4.97.

(d) ►◄

(2) The amounts referred to in paragraph (1) shall be the amounts applicable at the effective date.

#### Basic rate of child benefit

Words in reg. 4 substituted by reg. 9 of S.I. 1996/1803 as from 7.4.97.

4. For the purposes of paragraph 1(4) of Schedule 1 to the Act “basic rate” means the rate of child benefit which is specified in ► regulation 2(1)(a)(i) or 2(1)(b) of the Child Benefit Rates Regulations (weekly rate for only, elder or eldest child and for other children)◄ applicable to the child in question at the effective date.

*The said reg. 2(1) of S.I. 1976/1267, as amended, is reproduced at Annex 4 to this S.I.*

#### The general rule

5. For the purposes of paragraph 2(1) of Schedule 1 to the Act-

- (a) the value of C, otherwise than in a case where the other parent is the person with care, is nil; and
- (b) the value of P is 0.5.

#### The additional element

Reg. 6(1) substituted by reg. 4(3) of S.I. 1994/227 as from 7.2.94.

6.—►(1) For the purposes of the formula in paragraph 4(1) of Schedule 1 to the Act, the value of R is-

- (a) where the maintenance assessment in question relates to one qualifying child, 0.15;
- (b) where the maintenance assessment in question relates to two qualifying children, 0.20; and
- (c) where the maintenance assessment in question relates to three or more qualifying children, 0.25.◄

(2) For the purposes of the alternative formula in paragraph 4(3) of Schedule 1 to the act-

- (a) the value of Z is ►1.5◄;
- (b) the amount for the purposes of paragraph (b) of the definition of Q is the same as the amount specified in ►regulation 3(1)(c)◄ (income support family premium) in respect of each qualifying child

Figure in reg. 6(2)(a) substituted for “3” by reg. 43 of S.I. 1995/1045 as from 18.4.95 (subj to reg. 63(1) and (5) *ibid*; see also reg. 64(1) and (2) *ibid.*). Words in reg. 6(2)(b) substituted by reg. 45 of S.I. 1998/58 as from 6.4.98.

*Reproduced below are the words in reg. 6(2)(b) within the triangles as they were when substituted by reg.10 of S.I. 1996/1803 and apply from 7.4.97 to 5.4.98*

regulation 3(1)(c)(i)

#### Net income: calculation or estimation of N

7.—(1) Subject to the following provisions of this regulation, for the purposes of the formula in paragraph 5(1) of Schedule 1 to the act, the amount of N (net income of absent parent) shall be the aggregate of the following amounts-

- (a) the amount, determined in accordance with part I of schedule 1, of any earnings of the absent parent;
- (b) the amount, determined in accordance with part II of Schedule 1, of any benefit

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payments under the Contributions and Benefits Act<sup>1</sup>, the Jobseekers Act<sup>2</sup>, the Welfare Reform Act or Part 1 of the Pensions Act 2014<sup>3</sup> paid to or in respect of the absent parent;

<sup>1</sup>Words substituted in reg. 7(1)(b) by reg. 58(3) of S.I. 2008/1554 as from 27.7.08.

- (c) the amount, determined in accordance with Part III of Schedule 1, of any other income of the absent parent;
- (d) the amount, determined in accordance with Part IV of Schedule 1, of any income of a relevant child which is treated as the income of the absent parent;
- (e) any amount, determined in accordance with Part V of Schedule 1, which is treated as the income of the absent parent.

<sup>2</sup>Words in reg. 7(1)(b) substituted by reg. 14(2) of S.I. 2015/1985 as from 6.4.16.

(2) Any amounts referred to in Schedule 2 shall be disregarded.

(3) Where an absent parent's income consists—

- (a) only of <sup>3</sup>work-based training for young people or, in Scotland, Skillseekers training<sup>4</sup> allowance; or
- (b) in the case of a student, only of grant, an amount paid in respect of grant contribution or student loan or any combination thereof; or
- (c) only of prisoner's pay,

<sup>3</sup>Words substituted in reg. 7(3)(a) by reg. 6(3) of S.I. 1999/977 as from 6.4.99.

then for the purposes of determining N such income shall be disregarded.

(4) Where a parent and any other person are beneficially entitled to any income but the shares of their respective entitlements are not ascertainable the <sup>4</sup>Secretary of State shall estimate their respective entitlements having regard to such information as is available but where sufficient information on which to base an estimate is not available the parent and that other person shall be treated as entitled to that income in equal shares.

<sup>4</sup>Words substituted in reg. 7(4) by art. 16 of S.I. 1999/1510 as from 1.6.99.

(5) Where any income normally received at regular intervals has not been received it shall, if it is due to be paid and there are reasonable grounds for believing it will be received, be treated as if it has been received.

**Net income; calculation or estimation of M**

8. For the purposes of paragraph 5(2) of Schedule 1 to the Act, the amount of M (net income of the parent with care) shall be calculated in the same way as N is calculated under regulation 7 but as if references to the absent parent were references to the parent with care.

**Exempt income; calculation or estimation of E**

9.—(1) For the purposes of paragraph 5(1) of Schedule 1 to the Act, the amount of E (exempt income of absent parent) shall, subject to paragraphs (3) and (4), be the aggregate of the following amounts—

- (a) an amount equal to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule (income personal allowance for a single claimant aged not less than 25);
- (b) an amount in respect of housing costs determined in accordance with regulations 14 to <sup>5</sup>16 and<sup>6</sup>18;
- <sup>6</sup>(bb) where applicable, an amount in respect of a qualifying transfer of property determined in accordance with schedule 3A;<sup>7</sup>
- (c) <sup>7</sup>

<sup>5</sup>Words inserted in reg. 9(1)(b) by reg. 19 of S.I. 1996/1945 as from 7.10.96.

<sup>6</sup>Sub-para (bb) inserted in reg. 9(1) by reg. 44(2)(a) of S.I. 1995/1045 as from 18.4.95 (subj. to regs. 63(1) and (3)–(6) and 64(3) *ibid.* and to reg. 31(6A)–(6C) of S.I. 1992/1813).

<sup>7</sup>Reg. 9(1)(c) omitted by reg. 47(2)(a) of S.I. 1998/58 as from 6.4.98.

*Reproduced below, words in reg. 9(1)(c) substituted by reg. 11(2)(a)(ii) of S.I. 1996/1803 applies from 7.4.97.*

(c) where—

- (i) the absent parent is the parent of a relevant child; and
- (ii) if he were a claimant, the condition in paragraph 8 of the relevant Schedule (income support lone parent premium) would be satisfied but the conditions referred to in sub-paragraph (1)(d) would not be satisfied;

an amount equal to the amount specified in that sub-paragraph;



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*Reproduced below reg. 9(1)(c)(ii) substituted by reg. 11(2)(a)(i) of S.I. 1996/1803 applies from 7.4.97 to 18.1.98.*

(c) where—

- (i) the absent parent is the parent of a relevant child; and
- (ii) if he were a claimant, the conditions in paragraph 3(a) of the relevant Schedule would be satisfied;

an amount equal to the amount specified in that sub-paragraph;

*Reproduced below reg. 9(1)(c)(ii) as substituted by reg. 46(2) of S.I. 1998/58 in force from 19.1.98 to 5.4.98.*

(c) where—

- (i) the absent parent is the parent of a relevant child; and
- (ii) if he were a claimant, the rate of income support family premium specified in sub-paragraph (a) of paragraph 3 of the relevant Schedule would be applicable to him because he is a lone parent and no premium is applicable to him under paragraph 11 of that Schedule;

an amount equal to the amount specified in that sub-paragraph;

(d) where, if the parent were a claimant aged less than 60, the conditions in paragraph 11 of the relevant Schedule (income support disability premium) would be satisfied in respect of him, an amount equal to the amount specified in column (2) of paragraph 15(4)(a) of that Schedule (income support disability premium);

(e) where—

(i) if the parent were a claimant, the conditions in paragraph 13 of the relevant Schedule (income support severe disability premium) would be satisfied, an amount equal to the amount specified in column (2) of paragraph 15(5)(a) of that Schedule (except that no such amount shall be taken into account in the case of an absent parent in respect of whom ►<sup>1</sup>a carer's allowance◀ under section 70 of the Contributions and Benefits Act is payable to some other person);

(ii) if the parent were a claimant, the conditions in paragraph 14ZA of the relevant Schedule (income support a carer premium) would be satisfied in respect of him, an amount equal to the amount specified in column (2) of paragraph 15(7) of that Schedule;

►<sup>2</sup>(iii) if the parent were a claimant, the conditions in paragraph 13A of the relevant Schedule (income support enhanced disability premium) would be satisfied in respect of him, an amount equal to the amount specified in paragraph 15(8)(b) of that Schedule;◀

(f) where, if the parent were a claimant, the conditions in paragraph 3 of the relevant Schedule (income support family premium) would be satisfied in respect of a relevant child of that parent ►<sup>3</sup>◀, the amount specified in ►<sup>4</sup> sub-paragraph (b) of◀ that paragraph or, where those conditions would be satisfied only by virtue of the case being one to which paragraph (2) applies, half that amount;

<sup>1</sup>Words in reg. 9(1)(e)(i) substituted by reg. 6(3) of S.I. 2003/328 as from 1.4.03.

<sup>2</sup>Head (iii) inserted in reg. 9(1)(e) by reg. 5(a) of S.I. 2002/1204 as from 30.4.02.

<sup>3</sup>Words omitted from reg. 9(1)(f) by reg. 47(2)(b) of S.I. 1998/58 as from 6.4.98.

<sup>4</sup>Words inserted in reg. 9(1)(f) by reg. 11(2)(b)(ii) of S.I. 1996/1803 from 7.4.97.

►<sup>5</sup>Reproduced below are words inserted in reg. 9(1)(f) by reg. 11(2)(b)(i) of S.I. 1996/1803 that apply from 7.4.97 to 18.1.98, which were then omitted by reg. 47(2)(b) of S.I. 1998/58 as from 6.4.98.◀

►<sup>5</sup>but he is not a lone parent as defined in regulation 2(1) of the Income Support Regulations, ◀

►<sup>6</sup>Reproduced below are words inserted in reg. 9(1)(f) substituted by reg. 46(3) of S.I. 1998/58 that apply from 19.1.98.◀

►<sup>6</sup>but he is not a parent to whom sub-paragraph (c) applies,◀

- (g) in respect of each relevant child—
- (i) an amount equal to the amount of the personal allowance for that child, specified in column (2) of paragraph 2 of the relevant Schedule (income support personal allowance) or, where paragraph (2) applies, half that amount;
  - (ii) if the conditions set out in paragraph 14(b) and (c) of the relevant Schedule (income support disabled child premium) are satisfied in respect of that child, an amount equal to the amount specified in column (2) of paragraph 15(6) of the relevant Schedule or, where paragraph (2) applies, half that amount;
  - ▶<sup>1</sup>(iii) if the conditions set out in paragraph 13A of the relevant Schedule (income support enhanced disability premium) are satisfied in respect of that child, an amount equal to the amount specified in paragraph 15(8)(a) of that Schedule or, where paragraph (2) applies, half that amount; ◀
- ▶<sup>2</sup>(h) where the absent parent or his partner is resident in a care home or an independent hospital or is being provided with a care home service or an independent health care service, the amount of fees paid in respect of that home, hospital or service, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home, hospital or service, as the case may be, the net amount of such fees after deduction of housing benefit; ◀
- ▶<sup>3</sup>(i) where applicable, an amount in respect of travelling costs determined in accordance with schedule 3B. ◀
- (2) This paragraph applies where—
- (a) the absent parent has a partner;
  - (b) the absent parent and the partner are parents of the same relevant child; and
  - (c) the income of the partner, calculated under regulation 7(1) ▶<sup>4</sup>(but excluding the amount mentioned in sub-paragraph (d) of that regulation) ◀ as if that partner were an absent parent to whom that regulation applied, exceeds the aggregate of—
    - (i) the amount specified in column 2 of paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25);
    - (ii) half the amount of the personal allowance for that child specified in column (2) of paragraph 2 of the relevant Schedule (income support personal allowance);
    - (iii) half the amount of any income support disabled child premium specified in column (2) of paragraph 15(6) of that Schedule in respect of that child; ▶<sup>5</sup>and ◀
    - (iv) half the amount of any income support family premium specified in paragraph ▶<sup>6</sup>▶<sup>7</sup>(1) ◀ (b) of the relevant Schedule ◀ except where such premium is payable irrespective of that child; ▶<sup>5</sup> ◀
    - (v) ▶<sup>5</sup>where a departure direction has been given on the grounds that a case falls within regulations 27 of the Departure Direction and Consequential Amendments Regulation (partner's contribution to housing costs), the amount of the housing costs which corresponds to the percentage of the housing costs mentioned in regulation 40(7) of those Regulation ◀.
- (3) Where an absent parent does not have day to day care of any relevant child for 7 nights each week but does have day to day care of one or more such children for fewer than 7 nights each week, ▶<sup>8</sup>any amount ◀ to be taken into account under sub-paragraphs (1)(c) ▶<sup>8</sup>or (f) ◀ shall be reduced so that they bear the same proportion to the amount referred to in those sub-paragraphs as the average number of nights each week in respect of which such care is provided has to 7.
- (4) Where an absent parent has day to day care of a relevant child for fewer than 7 nights each week, any amounts to be taken into account under sub-paragraph (1)(g) in respect of such child shall be reduced so that they bear the same proportion to the amounts referred to in that sub-paragraph as the average number of nights each week in respect of which such care is provided has to 7.
- (5) The amounts referred to in paragraph (1) are the amounts applicable at the effective date.

<sup>1</sup>Head (iii) inserted into reg. 9(1)(g) of S.I. 2002/1204 as from 30.4.02.

<sup>2</sup>Para. (h) in reg. 9(1) substituted by reg. 4(3) of S.I. 2003/2779 as from 5.11.03.

<sup>3</sup>Sub-para. (i) added to reg. 9(1) by reg. 44(2)(b) of S.I. 1995/1045 as from 18.4.95 (subj. to regs. 63(1) and (3)-(6) and 64(3) *ibid.* and to reg. 31(6A)-(6C) of S.I. 1992/1813).

<sup>4</sup>Words in reg. 9(2)(c) inserted by reg. 20 of S.I. 1993/913 as from 5.4.93.

<sup>5</sup>Word “and” inserted in head (iii) and deleted from head (iv), and head (v) deleted, by reg. 44(3) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>6</sup>Words in reg. 9(2)(c)(iv) substituted by reg. 11(3) of S.I. 1996/1803 as from 7.4.97.

<sup>7</sup>Figure inserted in reg. 9(2)(c)(iv) by reg. 47(3) of S.I. 1998/58 as from 6.4.98.

<sup>8</sup>Words in reg. 9(3) substituted by reg. 11(4)(a) & 11(4)(b) respectively of S.I. 1996/1803 as from 7.4.97.

**Exempt income: calculation or estimation of F**

**10.** For the purposes of paragraph 5(2) of Schedule 1 to the Act, the amount of F (exempt income of parent with care) shall be calculated in the same way as E is calculated under regulation 9 but as if references to the absent parent were references to the parent with care ►<sup>1</sup>except that—

- (a) sub-paragraph (bb) of paragraph (1) of that regulation shall not apply unless at the time of the making of the qualifying transfer the parent with care would have been the absent parent had the Child Support Act 1991 been in force at the date of the making of the transfer; and
- (b) paragraph (3) and (4) of that regulation shall apply only where the parent with care shares the day to day care of the child mentioned in those paragraphs with one or more other persons.◀

<sup>1</sup>Words substituted in reg. 10 by reg. 45 of S.I. 1995/1045 as from 18.4.95 (subj. to regs. 63(1) and (3)–(5) and 64(3) *ibid.* and to reg. 31(6A)–(6C) of S.I. 1992/1813).

<sup>2</sup>Reg. 10A. inserted by reg. 11 of S.I. 1996/3196 as from 13.1.97.

<sup>3</sup>Words substituted in heading & para. (1) of reg. 10A by reg. 6(4) of S.I. 2003/328 as from 6.4.03.

<sup>4</sup>Words in para. (2)(b)(ii) substituted by art. 16 of S.I. 1999/1510 as from 1.6.99.

<sup>5</sup>Reg. 10B inserted by reg. 4(4) of S.I. 2003/2779 as from 5.11.03.

<sup>6</sup>Reg. 10C inserted by reg. 41(3) of S.I. 2013/630 as from 29.4.13.

<sup>7</sup>Words substituted in reg. 11(1) by reg. 46(2)(a) of S.I. 1995/1045 as from 18.4.95.

<sup>8</sup>Words substituted for “and (6)” by reg. 20(2) of S.I. 1996/1945 as from 7.10.96.

**►<sup>2</sup>Assessment income: ►<sup>3</sup>working tax credit◀ paid to or in respect of a parent with care or an absent parent**

**10A.**—(1) Subject to paragraph (2), where ►<sup>3</sup>working tax credit◀ is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Act, be taken to have no assessable income.

(2) Paragraph (1) shall apply to an absent parent only if—

- (a) he is also a parent with care; and
- (b) either—
  - (i) a maintenance assessment in respect of a child in relation to whom he is a parent with care is in force; or
  - (ii) the ►<sup>4</sup>Secretary of State◀ is considering an application for such an assessment to be made.◀

**►<sup>5</sup>Assessable income: state pension credit paid to or in respect of a parent with care or an absent parent**

**10B.** Where state pension credit is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Act, be taken to have no assessable income.◀

**►<sup>6</sup>Assessable income : universal credit paid to or in respect of the parent concerned**

**10C.**—(1) The circumstances prescribed for the purpose of the reference to universal credit in sub-paragraph (4) of paragraph 5 of Schedule 1 to the Child Support Act 1991 (as that paragraph has effect apart from section 1 of the Child Support, Pensions and Social Security Act 2000)(a) are where the universal credit that is paid to or in respect of the parent concerned is calculated on the basis that the parent has no earned income.

(2) In paragraph (1), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013.◀

**Protected income**

**11.**—(1) For the purposes of paragraph 6 of Schedule 1 to the Act the protected income level of an absent parent shall, ►<sup>7</sup>subject to paragraphs (3), (4)►<sup>8</sup>, (6) and (6A)◀,◀ be the aggregate of the following amounts—

- (a) where—
  - (i) the absent parent does not have a partner, an amount equal to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25 years);
  - (ii) the absent parent has a partner, an amount equal to the amount specified in column (2) of paragraph 1(3)(c) of the relevant Schedule (income support personal allowance for a couple where both members are aged not less than 18 years);
  - (iii) the absent parent is a member of a polygamous marriage, an amount in respect of himself and one of his partners, equal to the amount specified in sub-paragraph (ii) and, in respect of each of his other partners, an amount equal to the difference between the amount specified in sub-paragraph (ii) and sub-paragraph (i);

(a) 1991 c. 48 paragraph 5(4) was amended by paragraph 2 of Schedule 2 to the Welfare Reform Act 2012 (c. 5).

- (b) an amount in respect of housing costs determined in accordance with regulations 14, 15, 16 and 18, or, in a case where the absent parent is a non-dependant member of a household who is treated as having no housing costs by <sup>1</sup>regulation 15(4)◀, the non-dependant amount which would be calculated in respect of him under <sup>2</sup>paragraphs (1), (2) and (9) of <sup>3</sup>regulation 74 of the Housing Benefit Regulations or, as the case may be, regulation 55 of the Housing Benefit (State Pension Credit) Regulations◀ (non-dependant deductions) if he were a non-dependant in respect of whom a calculation were to be made under those paragraphs (disregarding any other provision of that regulation)◀;
- (c) ▶<sup>4</sup>◀

<sup>1</sup>Words substituted in reg. 11(1)(b) by reg. 43(2) of S.I. 1995/3261 as from 22.1.96.

<sup>2</sup>Words substituted in reg. 11(1)(b) for "regulation 15(5)" by reg. 46(2)(b) of S.I. 1995/1045 as from 18.4.95.

<sup>3</sup>Words substituted in reg. 11(1)(b) by reg. 4 of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>4</sup>Reg. 11(1)(c) omitted by reg. 49(2)(a) of S.I. 1998/58 as from 6.4.98.

*Reproduced below is reg. 11(1)(c) as substituted by reg. 12(2)(a) of S.I. 1996/1803 in force from 7.4.97 to 18.1.98.*

- (c) where, if the absent parent were a claimant, the conditions in paragraph 3(a) of the relevant Schedule (income support family premium) would be satisfied, an amount equal to the amount specified in that sub-paragraph;

*Reproduced below is reg. 11(1)(c) as substituted by reg. 48(a) of S.I. 1998/58 in force from 19.1.98 to 5.4.98.*

- (c) where, if the absent parent were a claimant, the rate of income support family premium specified in sub-paragraph (a) of paragraph 3 of the relevant Schedule would be applicable to him because he is a lone parent and no premium is applicable to him under paragraph 11 of that Schedule, an amount equal to the amount specified in that sub-paragraph;

- (d) where, if the parent were a claimant, the conditions in paragraph 11 of the relevant Schedule (income support disability premium) would be satisfied, an amount equal to the amount specified in column (2) of the paragraph 15(4) of that Schedule (income support disability premium);
- (e) where, if the parent were a claimant, the conditions in paragraph 13 or 14ZA of the relevant Schedule (income support severe disability and carer premiums) would be satisfied in respect of either or both premiums, an amount equal to the amount or amounts specified in column (2) of paragraph 15(5) or, as the case may be, (7) of that Schedule in respect of that or those premiums (income support premiums);
- (f) where, if the parent were a claimant, the conditions in paragraph 3 of the relevant Schedule (income support family premium) would be satisfied, the amount specified in <sup>5</sup>sub-paragraph (b) of that paragraph;

*Reproduced below is reg. 11(1)(f) in force from 7.4.97 to 18.1.98 as amended by reg. 12(2)(b)(i) of S.I. 1996/1803.*

- (f) where, if the parent were a claimant, the conditions in paragraph 3 of the relevant Schedule (income support family premium) would be satisfied but he is not a lone parent as defined in regulation 2(1) of the Income Support Regulations, the amount specified in sub-paragraph (b) of that paragraph;

*Reproduced below is reg. 11(1)(f) in force from 19.1.98 to 5.4.98 as amended by reg. 48(b) of S.I. 1998/58.*

- (f) where, if the parent were a claimant, the conditions in paragraph 3 of the relevant Schedule (income support family premium) would be satisfied but he is not a lone parent to whom sub-paragraph (c) applies, the amount specified in sub-paragraph (b) of that paragraph;

- (g) in respect of each child who is a member of the family of the absent parent—
- (i) an amount equal to the amount of the personal allowance for that child, specified in column (2) of paragraph 2 of the relevant Schedule (income support personal allowance);
- (ii) if the conditions set out in paragraphs 14(b) and (c) of the relevant Schedule (income support disabled child premium) are satisfied in respect of that child, an amount equal to the amounts specified in column (2) of paragraph 15(6) of the relevant Schedule;

<sup>5</sup>Words inserted in reg. 11(1)(f) by reg. 12(2)(b)(ii) of S.I. 1996/1803 as from 7.4.97.

(h) where, if the parent were a claimant, the conditions specified in Part III of the relevant Schedule would be satisfied by the absent parent in question or any member of his family in relation to any premium not otherwise included in this regulation, an amount equal to the amount specified in Part IV of that Schedule (income support premiums) in respect of that premium;

<sup>1</sup>Para. (i) substituted in reg. 11(1) by reg. 4(5) of S.I. 2003/2779 as from 5.11.03.

▶<sup>1</sup>(i) where the absent parent or his partner is resident in a care home or an independent hospital or is being provided with a care home service or an independent health care service, the amount of fees paid in respect of that home, hospital or service, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home, hospital or service, as the case may be, the net amount of such fees after deduction of housing benefit;◀

<sup>2</sup>Sub-para. (j) substituted in reg. 11(1) by reg. 46(2)(c) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

▶<sup>2</sup>(j) where—

(i) the absent parent is, or that absent parent and any partner of his are, the only person or persons resident in, and liable to pay council tax in respect of, the home for which housing costs are included under sub-paragraph (b), the amount of weekly council tax for which he is liable in respect of that home, less any applicable council tax benefit;

(ii) where other persons are resident with the absent parent in, and liable to pay council tax in respect of, the home for which housing costs are included under sub-paragraph (b), an amount representing the share of the weekly council tax in respect of that home applicable to the absent parent, determined by dividing the total amount of council tax due in that week by the number of persons liable to pay it, less any council tax benefit applicable to that share, provided that if the absent parent is required to pay and pays more than that share because of default by one or more of those other persons, the amount for the purposes of this regulation shall be the amount of weekly council tax the absent parent pays, less any council tax benefit applicable to such amount;◀

<sup>3</sup>Amount £30.00 in reg. 11(1)(k) substituted for £8.00 by reg. 4(4) of S.I. 1994/227 as from 7.2.94.

(k) an amount of ▶<sup>3</sup>£30.00◀;

▶<sup>4</sup>(kk) an amount in respect of travelling costs determined in accordance with Schedule 3B;◀

(l) where the income of—

(i) the absent parent in question;

(ii) any partner of his; and

(iii) any child or children for whom an amount is included under sub-paragraph (g)(i);

exceeds the sum of the amounts to which reference is made in sub-paragraphs ▶<sup>5</sup>(a) to (kk)◀, ▶<sup>6</sup>15 per centum◀ of the excess.

<sup>4</sup>Sub-para. (kk) added to reg. 11(1) by reg. 46(2)(d) of S.I. 1995/1045 as from 18.4.95 (subj. to regs. 63(1) and (3)-(6) and 64(3) *ibid.* and to reg. 31(6A)-(6C) of S.I. 1992/1813).

(2) For the purposes of sub-paragraph (1) of paragraph (1) “income” shall be calculated—

<sup>5</sup>Words substituted in reg. 11(1)(1) for “(a) to (k)” by reg. 46(2)(e) of S.I. 1995/1045 as from 18.4.95 (subj. to regs. 63(1) and (3)-(6) and 64(3) *ibid.* and to reg. 31(6A)-(6C) of S.I. 1992/1813).

(a) in respect of the absent parent in question or any partner of his, in the same manner as N (net income of absent parent) is calculated under regulation 7 except—

<sup>6</sup>Words in reg. 11(1)(1) substituted by reg. 4(5) of S.I. 1994/227 as from 7.2.94. (Previously 10 per centum.)

(i) there shall be taken into account the basic rate of any child benefit and any maintenance which in either case is in payment in respect of any member of the family of the absent parent;

(ii) there shall be deducted the amount of any maintenance under a maintenance order which the absent parent or his partner is paying in respect of a child in circumstances where an application for a maintenance assessment could not be made in accordance with the Act in respect of that child; ▶<sup>7</sup>◀

<sup>7</sup>Word “and” deleted in head (ii) of reg. 11(2)(a) by reg. 46(3) of S.I. 1995/1045 as from 18.4.95.



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- ▶<sup>1</sup>(iii) to the extent that it falls under sub-paragraph (b), the income of any child in that family shall not be treated as the income of the parent or his partner and Part IV of Schedule 1 shall not apply; ▶<sup>2</sup>◀◀

<sup>1</sup>Head (iii) added to reg. 11(2)(a) by reg. 46(4) of S.I. 1995/1045 as from 18.4.95 (subj. to reg. 63(1) and (5) *ibid.*).

<sup>2</sup>Word deleted from the end of reg. 11(2)(a)(iii) by reg. 43(4) of S.I. 1995/3261 as from 22.1.96.



- ▶<sup>1</sup>(iv) paragraph 27 of Schedule 2 shall apply as though the reference to paragraph 3(2) and (4) of Schedule 3 were omitted;
- (v) there shall be deducted the amount of any maintenance which is being paid in respect of a child by the absent parent or his partner under an order requiring such payment made by a court outside Great Britain; and◀
- ▶<sup>2</sup>(vi) there shall be taken into account any child tax credit which is payable to the absent parent or his partner; and◀
- (b) in respect of any child in that family, as being the total of ▶<sup>3</sup>that child's relevant income (within the meaning of paragraph 23 of Schedule 1), there being disregarded any maintenance in payment to or in respect of him,◀ but only to the extent that such income does not exceed the amount included under sub-paragraph (g) and paragraph (1) (income support personal allowance for a child and income support disabled child premium) reduced, as the case may be, under paragraph (4).
- (3) Where an absent parent does not have day to day care of any child (whether or not a relevant child) for 7 nights each week but does have day to day care of one or more such children for fewer than 7 nights each week ▶<sup>4</sup>any amount◀, to be taken into account under ▶<sup>5</sup>sub-paragraph (f)◀ of paragraph (1) ▶<sup>6</sup>◀ (income support family premium) shall be reduced so that they bear the same proportion to the amounts referred to in those sub-paragraphs as the average number of nights each week in respect of which such care is provided has to 7.
- (4) Where an absent parent has day to day care of a child (whether or not a relevant child) for fewer than 7 nights each week any amounts in relation to that child to be taken into account under sub-paragraph (g) of paragraphs (1) (income support personal allowance for child and income support disabled child premium) shall be reduced so that they bear the same proportion to the amounts referred to in that sub-paragraph as the average number of nights in respect of which such care is provided has to 7.
- (5) The amounts referred to in paragraph (1) shall be the amounts applicable at the effective date.
- ▶<sup>7</sup>(6) If the application of the above provisions of this regulation would result in the protected income level of an absent parent being less than 70 per centum of his net income, as calculated in accordance with regulation 7, those provisions shall not apply in his case and instead his protected income level shall be 70 per centum of his net income as so calculated.
- ▶<sup>8</sup>(6A) In a case to which paragraph (6) does not apply, if the application of paragraphs (1) to (5) and of regulation 12(1)(a) would result in the amount of child support maintenance payable being greater than 30 per centum of the absent parent's net income calculated in accordance with regulation 7, paragraphs (1) to (5) shall not apply in his case and instead his protected income level shall be 70 per centum of his net income as so calculated.◀
- (7) Where any calculation under paragraph (6) ▶<sup>8</sup>or (6A)◀ results in a fraction of a penny, that fraction shall be treated as a penny.◀

<sup>1</sup>Heads (iv) and (v) added to reg. 11(2)(a) by reg. 43(5) of S.I. 1995/3261 as from 22.1.96 or, if an assessment is then in force in a case affected by the new head (v), as from when it is next reviewed in consequence thereof (reg. 57(i) *ibid.*), subj. in all events to reg. 57(3) *ibid.*, (change in amount of assessment not effective before 22.1.96).

<sup>2</sup>Head (vi) inserted in reg. 11(2)(a) by reg. 6(5) of S.I. 2003/328 as from 6.4.03.

<sup>3</sup>Words in reg. 11(2)(b) substituted for "that child's income" by reg. 46(5) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>4</sup>Words in reg. 11(3) substituted by reg. 12(3)(a) of S.I. 1996/1803 as from 7.4.97.

<sup>5</sup>Words in reg. 11(3) substituted by reg. 49.(3) of S.I. 1998/58 as from 6.4.98. From 7.4.97 to 5.4.98 this phrase read "sub-paragraphs (c) or (f)" as substituted by reg. 12(3)(b) of S.I. 1996/1803.

<sup>6</sup>Words deleted from reg. 11(3) by reg. 12(3)(c) of S.I. 1996/1803 as from 7.4.97.

<sup>7</sup>Reg. 11(6)-(7) added by reg. 46(6) of S.I. 1995/1045 as from 18.4.95 (subj. to reg. 63(1) and (5) *ibid.*; see also reg. 64(1) and (2) *ibid.*).

<sup>8</sup>Reg. 11(6A) inserted and words inserted in reg. 11(7) by reg. 20(3) and 20(4) respectively of S.I. 1996/1945 as from 5.8.96.

<sup>9</sup>Reg. 12(1) substituted by reg. 47 of S.I. 1995/1045 as from 18.4.95 (subj. to reg. 63(1) and (5) *ibid.*; see also reg. 64(1) and (2) *ibid.*).

### Disposable income

12.—▶<sup>9</sup>(1) For the purposes of paragraph 6(4) of Schedule 1 to the Act (protected income), the disposable income of an absent parent shall be—

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<sup>1</sup>Words inserted in reg. 12(1)(a) by reg. 21 of S.I. 1996/1945 as from 5.8.96.

<sup>2</sup>Words omitted in reg. 12(1)(a) by reg. 12(1)(2) of S.I. 1996/3196 as from 13.1.97.

<sup>3</sup>Words inserted in reg. 12(1)(b) by reg. by reg. 12(1)(3)(a) of S.I. 1996/3196 as from 13.1.97.

<sup>4</sup>Words substituted in reg. 12(1)(b) by reg. 12(1)(3) of S.I. 1996/3196 as from 13.1.97.

<sup>5</sup>Sub-para. 12(1)(c) inserted by reg. 12(1)(4) of S.I. 1996/3196 as from 13.1.97.

<sup>6</sup>Words inserted and words substituted in reg. 13(1) and (2) respectively by reg. 2(2) and (3) of S.I. 1996/481 as from 8.4.96.

<sup>7</sup>Words in reg. 15(1) substituted for "16 to 18" by reg. 48(2) of S.I. 1995/1045 as from 18.4.95.

<sup>8</sup>Words substituted in reg. 15(3) by reg. 4(4) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>9</sup>Words added to reg. 15(3) by reg. 50 of S.I. 1998/58 as from 19.1.98.

<sup>10</sup>Former paras. (4)-(9) in reg. 15 deleted by reg. 48(3) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>11</sup>Reg. 15(4) substituted (under the designation of reg. 15(10), by reg. 48(4) of S.I. 1995/1045 as from 18.4.95; from 22.1.96 re-designated as reg. 15(4) by reg. 44 of S.I. 1995/3261.

(a) except in a case to which regulation 11(6) <sup>1</sup>or (6A) <sup>2</sup>applies, the aggregate of his income and any income of any member of his family calculated in like manner as under regulation 11(2); <sup>2</sup>

(b) <sup>3</sup>subject to sub-paragraph (c), <sup>4</sup>in a case to which regulation 11(6) <sup>1</sup>or (6A) <sup>2</sup>applies, his net income as calculated in accordance with regulation 7 <sup>4</sup>and <sup>5</sup>

<sup>5</sup>(c) in a case to which regulation 11(6) applies and the absent parent is paying maintenance under an order of a kind mentioned in regulation 11(2)(a)(ii) or (v), his net income as calculated in accordance with regulation 7 less the amount of maintenance he is paying under that order. <sup>6</sup>

(2) Subject to paragraph (3), where a maintenance assessment has been made with respect to the absent parent and payment of the amount of that assessment would reduce his disposable income below his protected income level the amount of the assessment shall be reduced by the minimum amount necessary to prevent his disposable income being reduced below his protected income level.

(3) Where the prescribed minimum amount fixed by regulations under paragraph 7 of Schedule 1 to the Act is applicable (such amount being specified in regulation 13) the amount payable under the assessment shall not be reduced to less than the prescribed minimum amount.

**The minimum amount**

**13.**—(1) Subject to regulation 26, for the purposes of paragraph 7(1) of Schedule 1 to the Act the minimum amount shall be <sup>6</sup>2 multiplied by <sup>6</sup>5 per centum of the amount specified in paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25).

(2) Where <sup>6</sup>the 5 per centum amount <sup>6</sup>calculated under paragraph (1) results in a sum other than a multiple of 5 pence, it shall be treated as the sum which is the next higher multiple of 5 pence.

**Eligible housing costs**

**14.** Schedule 3 shall have effect for the purpose of determining the costs which are eligible to be taken into account as housing costs for the purposes of these Regulations.

**Amount of housing costs**

**15.**—(1) Subject to the provisions of this regulation and regulations <sup>7</sup>16 and 18 <sup>8</sup>, a parent's housing costs shall be the aggregate of the eligible housing costs payable in respect of his home.

(2) Where a local authority has determined that a parent is entitled to housing benefit, the amount of his housing costs shall, subject to paragraphs (4) to (9), be the weekly amount treated as rent under <sup>8</sup>regulations 12 and 80 of the Housing Benefit Regulations or, as the case may be, regulations 12 and 61 of the Housing Benefit (State Pension Credit) Regulations <sup>9</sup>(rent and calculation of weekly amounts) less the amount of housing benefit.

(3) Where a parent has eligible housing costs and another person who is not a member of his family is also liable to make payments in respect of the home, the amount of the parent's housing costs shall be his share of those costs <sup>9</sup>but where that other person does not make payments in circumstances where head (a) of paragraph 4(2) of Schedule 3 applies, the eligible housing costs of that parent shall include the housing costs for which, because of that failure to pay, that parent is treated as responsible under that head. <sup>10</sup>

(4)–(9) <sup>10</sup>

<sup>11</sup>(4) A parent shall be treated as having no housing costs where he is a non dependant member of a household and is not responsible for meeting housing costs except to another member, or other members, of that household. <sup>11</sup>

**Regs. 16-17**

**►Weekly amount of housing costs**

**16.—(1) ►Where housing costs are payable by a parent◄—**

- (a) on a weekly basis, the amount of such housing costs shall subject to paragraph (2), be the weekly rate payable at the effective date;
- (b) on a monthly basis, the amount of such housing costs shall subject to paragraph (2), be the monthly rate payable at the effective date, multiplied by 12 and divided by 52;
- (c) by way of rent payable to a housing association, as defined in section 1(1) of the Housing Associations Act 1985(a) which is registered in accordance with section 5 of that Act, or to a local authority, on a free week basis, that is to say the basis that he pays an amount by way of rent for a given number of weeks in a 52 week period, with a lesser number of weeks in which there is no liability to pay (“free weeks”), the amount of such housing costs shall be ►the amount payable◄—
  - (i) in the relevant week if it is not a free week; or
  - (ii) in the last week before the relevant week which is not a free week, if the relevant week is a free week;
- (d) on any other basis, the amount of such housing costs shall, subject to paragraph (2), be the rate payable at the effective date, multiplied by the number of payment periods, or the nearest whole number of payment periods (any fraction of one half being rounded up), falling within a period of 365 days and divided by 52.

Reg. 16 substituted by reg. 22 of S.I. 1996/1945 as from 5.8.96.

Words in reg. 16(1) substituted by reg. 51(a) of S.I. 1998/58 as from 19.1.98.

Words in reg. 16(1)(c) substituted by reg. 51(b) of S.I. 1998/58 as from 19.1.98.

(2) Where housing costs consist of payments or a repayment mortgage and the absent parent or parent with care has not provided information or evidence as to the rate of repayment of the capital secured and the interest payable on that mortgage at the effective date and that absent parent or parent with care has provided a statement from the lender, in respect of a period ending not more than 12 months prior to the first day of the relevant week, for the purposes of the calculation of exempt income under regulation 9 and protected income under regulation 11—

- (a) if the amount of capital repaid for the period covered by that statement is shown on it, the rate of repayment of capital owing under that mortgage shall be calculated by reference to that amount; and
- (b) if the amount of capital owing and the interest rate applicable at the end of the period covered by that statement are shown on it, the interest payable on that mortgage shall be calculated by references to that amount and that interest rate.◄

[Regulation 17(apportionment of housing costs; exempt income) revoked by reg. 50 of S.I. 1995/1045 as from 18.4.95 ((subj. to reg. 63(1) and (5) *ibid.*; see also reg. 64(1) and (2) *ibid.*.)]

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(a) 1985 c. 69.



## Reg. 18

**Excessive housing costs**

**18.—(1)** Subject to paragraph (2), the amount of the housing costs of an absent parent which are to be taken into account—

- (a) under regulation 9(1)(b) shall not exceed the greater of £80.00 or half the amount of N as calculated or estimated under regulation 7;
- (b) under regulation 11(1)(b) shall not exceed the greater of £80.00 or half of the amount calculated in accordance with regulation 11(2).

(2) The restriction imposed by paragraph (1) shall not apply where—

- (a) the absent parent in question—
  - (i) has been awarded housing benefit (or is awaiting the outcome of a claim to that benefit);
  - (ii) has the day to day care of any child; or
  - (iii) is a person to whom a disability premium under paragraph 11 of the relevant Schedule applies in respect of himself or his partner or would so apply if he were entitled to income support and were aged less than 60;
- (b) the absent parent in question, following divorce from ►dissolution of a civil partnership with, ◀ or the breakdown of his relationship with, his former partner, remains in the home he occupied with his former partner;
- (c) the absent parent in question has paid the housing costs under the mortgage, charge or agreement in question for a period in excess of 52 weeks before the date of the first application for child support maintenance in relation to a qualifying child of his and there has been no increase in those costs other than an increase in the interest payable under the mortgage or charge or, as the case may be, in the amount payable under the agreement under which the home is held;
- (d) the housing costs in respect of the home in question would not exceed the amount set out in paragraph (1) but for an increase in the interest payable under a mortgage or charge secured on that home or, as the case may be, in the amount payable under any agreement under which it is held; or
- (e) the absent parent is responsible for making payments in respect of housing costs which are higher than they would be otherwise by virtue of the unavailability of his share of the equity of the property formerly occupied with his partner and which remains occupied by that former partner.

Words inserted in para. (2)(b) of reg. 18 by para. 2(3) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

## PART III SPECIAL CASES

### Both parents are absent

**19.**—(1) Subject to regulation 27, where the circumstances of a case are that each parent of a qualifying child is an absent parent in relation to that child (neither being a person who is treated as an absent parent by regulation 20(2) that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case—

- (a) where the application is made in relation to both absent parents, separate assessments shall be made under Schedule 1 to the Act in respect of each so as to determine the amount of child support maintenance payable by each absent parent;
- (b) subject to paragraph (3), where the application is made in relation to both absent parents, the value of C in each case shall be the assessable income of the other absent parent and where the application is made in relation to only one the value of C in the case of the other shall be nil;
- (c) ▶◀

*Reproduced below is reg. 19(2)(c) as amended by reg. 13 of S.I. 1996/1803 in force from 7.4.97 to 5.4.98.*

(c) where the person with care is a body of persons corporate or unincorporate, the value of AG shall include the amount specified in regulation 3(1)(c)(i) but not the amount specified in regulation 3(1)(c)(ii) (income support family premium);

- ▶(d) where the application is made in relation to one absent parent only, the amount of the maintenance requirement applicable in that case shall be one-half of the amount determined in accordance with paragraph 1(2) of Schedule 1 to the Act or, where regulation 23 applies (person caring for children of more than one absent parent), of the amount determined in accordance with paragraphs (2) to (3) of that regulation.◀

(3) Where, for the purposes of paragraph (2)(b), information regarding the income of the other absent parent has not been submitted to the Secretary of State ▶◀ within the period specified in regulation 6(1) of the Maintenance Assessment Procedure Regulations then until such information is acquired the value of C shall be nil.

(4) When the information referred to in paragraph (3) is acquired the ▶Secretary of State◀ shall make a fresh assessment which shall have effect from the effective date in relation to that other absent ▶parent or, from the effective date as determined by paragraph (2) of regulation 30 of the Maintenance Assessment Procedure Regulations, whichever is the later.◀

Reg. 19(2)(c) deleted by reg. 52 of S.I. 1998/58 as from 6.4.98.

Reg. 19(2)(d) added by regs. 23 and 25(5) of S.I. 1996/1945 for applications made on or after 7.10.96, and for existing assessments when next reviewed after 7.10.96.

Words deleted in reg. 19(3) & substituted in 19(4) by art. 17 of S.I. 1999/1510 as from 1.6.99.

Words substituted in reg. 19(4) by reg. 6(4) of S.I. 1999/977 as from 6.4.99.

### Persons treated as absent parents

**20.**—(1) Where the circumstances of a case are that—

- (a) two or more persons who do not live in the same household each provide day to day care for the same qualifying child; and
- (b) at least one of those persons is a parent of that child,

that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case a parent who provides day to day care for a child of his in the following circumstances is to be treated as an absent parent for the purposes of the Act and these Regulations—

- (a) a parent who provides such care to a lesser extent than the other parent, person or persons who provide such care for the child in question;
- (b) where the persons mentioned in paragraph (1)(a) include both parents and the circumstances are such that care is provided to the same extent by both but each provides care to a greater or equal extent than any other person who provides such care for that child—

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Words substituted in reg. 20(2)(b)(ii) by art. 16 of S.I. 1999/1510 as from 1.6.99.

- (i) the parent who is not in receipt of child benefit for the child in question; or
- (ii) if neither parent is in receipt of child benefit for that child, the parent who, in the opinion of the ►Secretary of State◄, will not be the principal provider of day to day care for that child.

(3) Subject to paragraphs (5) and (6), where a parent is treated as an absent parent under paragraph (2) child support maintenance shall be payable by that parent in respect of the child in question and the amount of the child support maintenance so payable shall be calculated in accordance with the formula set out in paragraph (4).

(4) The formula for the purposes of paragraph (3) is—

$$T = X - \left\{ (X + Y) \times \frac{J}{7 \times L} \right\}$$

where—

T is the amount of child support maintenance payable;

X is the amount of child support maintenance which would be payable by the parent who is treated as an absent parent, assessed under Schedule 1 to the Act as if paragraphs 6 and 7 of that Schedule did not apply, and, where the other parent is an absent parent, as if the value of C was the assessable income of the other parent;

Y is—

- (i) the amount of child support maintenance assessed under Schedule 1 to the Act payable by the other parent if he is an absent parent or which would be payable if he were an absent parent, and for the purposes of such calculation the value of C shall be the assessable income of the parent treated as an absent parent under paragraph(2); or,
- (ii) if there is no such other parent, shall be nil;

J is the total of the weekly average number of nights for which day to day care is provided by the person who is treated as the absent parent in respect of each child included in the maintenance assessment and shall be calculated to 2 decimal places;

L is the number of children who are included in the maintenance assessment in question.

(5) Where the value of T calculated under the provisions of paragraph (4) is less than zero, no child support maintenance shall be payable.

(6) The liability to pay any amount calculated under paragraph (4) shall be subject to the provision made for protected income and minimum payments under paragraphs 6 and 7 of Schedule 1 to the Act.

#### **One parent is absent and the other is treated as absent**

**21.—(1)** Where the circumstances of a case are that one parent is an absent parent and the other parent is treated as an absent parent by regulation 20(2), that case shall be treated as a special case for the purposes of the Act.

(2) For the purpose of assessing the child support maintenance payable by an absent parent where this case applies, each reference in Schedule 1 to the Act to a parent who is a person with care shall be treated as a reference to a person who is treated as an absent parent by regulation 20(2).

**Multiple applications relating to an absent parent**

22.—▶(1) Where an application for a maintenance assessment has been made in respect of an absent parent and—

- (a) at least one other application for a maintenance assessment has been made in relation to the same absent parent (or a person who is treated as an absent parent by regulation 20(2) but to different children; or
- (b) at least one maintenance assessment is in force in relation to the same absent parent or a person who is treated as an absent parent by regulation 20(2) but to different children,

that case shall be treated as a special case for the purposes of the Act,◀

▶(2) For the purposes of assessing the amount of child support maintenance payable in respect of each application where ▶paragraph (1)(a)◀applies ▶or in respect of the application made in circumstances where paragraph (1)(b) applies◀ for references to the assessable income of an absent parent in the Act and in these Regulations ▶, and subject to paragraph (2ZA),◀there shall be substituted references to the amount calculated by the formula—

$$\left( A + T \times \frac{B}{D} \right) - CS$$

where—

A is the absent parent's assessable income;

T is the sum of the amounts allowable in the calculation or estimation of his exempt income by virtue of Schedule 3A;

B is the maintenance requirement calculated in respect of the application in question;

D is the sum of the maintenance requirements as calculated for the purposes of each assessment relating to the absent parent in question; and

CS is the amount (if any) allowable by virtue of Schedule 3A in calculating or estimating the absent parent's exempt income in respect of a relevant qualifying transfer of property in respect of the assessment in question.◀

▶ (2ZA) Where a case falls within regulation 39(1)(a) of the Departure Direction and Consequential Amendment Regulations, for the purposes of assessing the amount of child support maintenance payable in respect of an application for child support maintenance before a departure direction in respect of the maintenance assessment in question is given, for references to the assessable income of an absent parent in the Act and in these Regulations there shall be substituted references to the amount calculated by the formula—

$$(A + T) \times \frac{B}{D}$$

where A, T, B and D have the same meanings as in paragraph (2).◀

▶(2A) Where paragraph (1)(b) applies, and a maintenance assessment has been made in respect of the application referred to in paragraph (1), each maintenance assessment in force at the time of that assessment shall be reduced using the formula for calculation of assessable income set out in paragraph (2) and each reduction shall take effect on the date specified in regulation 33(7) of the Maintenance Assessment Procedure Regulations.◀

▶(2B) Where—

- (a) a case is treated as a special case for the purposes of the Act by virtue of paragraph (1);
- (b) more than one maintenance assessment is in force in respect of the absent parent; and
- ▶(c) any of those assessments falls to be replaced by a fresh assessment to be made by virtue of a revision under section 16 of the Act or a decision under section 17 of the Act superseding an earlier decision,◀

Reg. 22(1) substituted by reg. 45(2) of S.I. 1995/3261 as from 22.1.96.

Reg. 22(2) substituted by reg. 51 of S.I. 1995/1045 as from 18.4.95 (subj. to regs. 63(1) and (3)-(5) and 64(3) *ibid.* and to reg. 31(6A)-(6C) of S.I. 1992/1813).

Words substituted and words inserted in reg. 22(2) by reg. 45(3) of S.I. 1995/3261 as from 22.1.96.

Words inserted in reg. 22(2) by reg. 68(5)(a) of S.I. 1996/2907 as from 2.12.96.

Reg. 22(2ZA) inserted by reg. 68(5)(b) of S.I. 1996/2906 as from 2.12.96.

Reg. 22(2A) inserted by reg. 45(4) of S.I. 1995/3261 as from 22.1.96.

Regs 22(2B) and (2C) inserted by reg. 53 of S.I. 1998/58 as from 19.1.98.

Sub-para. (c) substituted by art. 18(a) of S.I. 1999/1510 as from 1.6.99.

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the formula set out in paragraph (2) or, as the case may be, paragraph (2ZA) shall be applied to calculate or estimate the amount of child support maintenance payable under that fresh assessment.

Words in sub-para. (2C) substituted by art. 18(b) of S.I. 1999/1510 as from 1.6.99.

(2C) Where a maintenance assessment falls within sub-paragraph (b) of paragraph (2B) but ►not within◄ sub-paragraph (c) of that paragraph, the formula set out in paragraph (2) or, as the case may be, paragraph (2ZA) shall be applied to determine whether that maintenance assessment should be increased or reduced as a result of the making of a fresh assessment under sub-paragraph (c) and any increase or reduction shall take effect from the effective date of that fresh assessment. ◄

(3) Where more than one maintenance assessment has been made with respect to the absent parent and payment by him of the aggregate of the amounts of those assessments would reduce his disposable income below his protected income level, the aggregate amount of those assessments shall be reduced (each being reduced by reference to the same proportion as those assessments bear to each other) by the minimum amount necessary to prevent his disposable income being reduced below his protected income level provided that the aggregate amount payable under those assessments shall not be reduced to less than the minimum amount prescribed in regulation 13(1).

Reg. 22(4) substituted by reg. 23 of S.I. 1993/913 as from 5.4.93.

►(4) Where the aggregate of the child support maintenance payable by the absent parent is less than the minimum amount prescribed in regulation 13(1), the child support maintenance payable shall be—

- (a) that prescribed minimum amount apportioned between the two or more applications in the same ratio as the maintenance requirements in question bear to each other; or
- (b) where, because of the application of regulation 2(2), such an apportionment produces an aggregate amount which is different from that prescribed minimum amount, that different amount. ◄

(5) Payment of each of the maintenance assessments calculated under this regulation shall satisfy the liability of the absent parent (or a person treated as such) to pay child support maintenance.

**Person caring for children of more than one absent parent**

23.—(1) Where the circumstances of a case are that—

- (a) a person is a person with care in relation to two or more qualifying children; and
- (b) in relation to at least two of those children there are different persons who are absent parents or persons treated as absent parents by regulation 20(2);

that case shall be treated as a special case for the purposes of the Act.

(2) ► Subject to paragraph (2A) ◀ in calculating the maintenance requirements for the purposes of this case, for any amount which (but for this paragraph) would have been included under regulation 3(1)(b), ► or (c) ◀ (amounts included in the calculation of AG) there shall be substituted an amount calculated by dividing the amount which would have been so included by the relevant number.

Words inserted in reg. 23(2) by reg. 4(6) of S.I. 1994/227 as from 7.2.94.

Words in reg 23(2) substituted by reg. 14 of S.I. 1996/1803 as from 8.7.96.

► (2A) In applying the provisions of paragraph (2) to the amount which is to be included in the maintenance requirements under regulation 3(1)(b)—

Reg. 23(2A) inserted by reg. 4(6) of S.I. 1994/227 as from 7.2.94.

- (a) first take the amount specified in head (i) of regulation 3(1)(b) and divide it by the relevant number;
- (b) then apply the provisions of regulation 3(1)(b) as if the references to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule were references to the amount which is the product of the calculation required by head (a) above, and as if, in relation to an absent parent, the only qualifying children to be included in the assessment were those qualifying children in relation to whom he is the absent parent. ◀

(3) ► In paragraph (2) and (2A) ◀ “the relevant number” means the number equal to the total number of persons who, in relation to those children, are either absent parents or persons treated as absent parents by regulation 20(2) except that where in respect of the same child both parents are persons who are either absent parents or persons who are treated as absent parents under that regulation, they shall count as one person.

Words in reg. 23(3) substituted by reg. 4(7) of S.I. 1994/227 as from 7.2.94.

(4) Where the circumstances of a case fall within this regulation and the person with care is the parent of any of the children, for C in paragraph 2(1) of Schedule 1 to the Act (the assessable income of that person) there shall be substituted the amount which would be calculated under regulation 22(2) if the references therein to an absent parent were references to a parent with care.



**Persons with part-time care-not including a person treated as an absent parent**

**24.—(1)** Where the circumstances of a case are that—

- (a) two or more persons who do not live in the same household each provide day to day care for the same qualifying child; and
- (b) those persons do not include any parent who is treated as an absent parent of that child by regulation 20(2).

that case shall be treated as a special case of the purposes of the Act.

- (2) For the purposes of this case—
- (a) the person whose application for a maintenance assessment is being proceeded with shall, subject to paragraph (b), be entitled or receive all of the child support maintenance payable under the Act in respect of the child in question;
  - (b) on request being made to the Secretary of State by—
    - (i) that person; or
    - (ii) any other person who is providing day to day care for that child and who intends to continue to provide that care,
 the Secretary of State may make arrangements of the payment of any child support maintenance payable under the Act to the persons who provide such care in the same ratio as that in which it appears to the Secretary of State, that each is to provide such care for the child in question;
  - (c) before making an arrangement under sub-paragraph (b), the Secretary of State shall consider all of the circumstances of the case and in particular the interest of the child, the present arrangements for the day to day care of the child in question and any representations or proposals made by the persons who provide such care of that child.

**Care provided in part by a local authority**

25.—(1) Where the circumstances of a case are that a local authority and a person each provide day to day care for the same qualifying child, that case shall be treated as a special case for the purposes of the Act.

- (2) <sup>1</sup>Subject to paragraph (3), in a case where this regulation applies <sup>2</sup>—
- (a) child support maintenance shall be calculated in respect of that child as if this regulation did not apply;
  - (b) the amount so calculated shall be divided by 7 so as to produce a daily amount;
  - (c) in respect of each night for which day to day care for that child is provided by a person other than the local authority, the daily amount relating to that period shall be payable by the absent parent (or, as the case may be, by the person treated as an absent parent under regulation 20(2));
  - (d) child support maintenance shall not be payable in respect of any night for which the local authority provides day to day care for that qualifying child.

<sup>1</sup>Words in reg. 25(2) substituted by reg. 52(2) of S.I. 1995/1045 as from 18.4.95.

<sup>2</sup>(3) In a case where more than one qualifying child is included in a child support maintenance assessment application and where this regulation applies to at least one of those children, child support maintenance shall be calculated by applying the formula—

<sup>2</sup>Reg. 25(3) inserted by reg. 52(3) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

$$S \times \left\{ \frac{A}{7 \times B} \right\}$$

where—

S is the total amount of child support maintenance in respect of all qualifying children included in that maintenance assessment application, calculated as if this regulation did not apply;

A is the aggregate of the number of nights of day to day care for all qualifying children included in that maintenance assessment application provided in each week by a person other than the local authority;

B is the number of qualifying children in respect of whom the maintenance assessment application has been made. ◀

**Cases where child support maintenance is not to be payable**

26.—(1) Where the circumstances of a case are that—

- (a) but for this regulation the minimum amount prescribed in regulation 13(1) would apply; and
- (b) any of the following conditions are satisfied—
  - (i) the income of the absent parent includes one or more of the payments or awards specified in Schedule 4 or would include such a payment but for a provision preventing the receipt of that payment by reason of it overlapping with some other benefit payment or would, in the case of the payments referred to in paragraph (a)(i) or (iv) of that Schedule, include such a payment if the relevant contribution conditions for entitlement had been satisfied;
  - (ii) an amount to which regulation 11(1)(f) applies (protected income; income support family premium) is taken into account in calculating or estimating under paragraphs (1) to (5) of regulation 11, the protected income of the absent parent;
  - (iii) the absent parent is a child within the meaning of section 55 of the Act;
  - (iv) the absent parent is a prisoner; or
  - (v) the absent parent is a person in respect of whom N (as calculated or estimated under regulation 7(1) is less than the minimum amount prescribed by regulation 13(1),

the case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case—

- (a) the requirement in paragraph 7(2) of Schedule 1 to the Act (minimum amount of child support maintenance fixed by an assessment to be the prescribed minimum amount) shall not apply;
- (b) the amount of the child support maintenance to be fixed by the assessment shall be nil.

**Child who is a boarder or an in-patient**

27.—(1) Where the circumstances of a case are that—

- (a) a qualifying child is a boarder at a boarding school or is an in-patient in a hospital; and
- (b) by reason of those circumstances, the person who would otherwise provide day to day care is not doing so,

that case shall be treated as a special case of the purposes of the Act,

(2) For the purposes of this case, section 3(3)(b) of the Act shall be modified so that for the reference to the person who usually provides day to day care for the child there shall be substituted a reference to the person who would usually be providing such care for that child but for the circumstances specified in paragraph (1).

**Child in care who is allowed to live with their parent**

27A.—(1) Where the circumstances of a case are that a qualifying child who is in the care of a local authority in England and Wales is allowed by the authority to live with a parent of his under section 22C(2) or 23(5) of the Children Act 1989(a), that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case, section 3(3)(b) of the Act shall be modified so that for the reference to the person who usually provides day to day care for the child there shall be substituted a reference to the parent of a child with whom the local authority has allowed the child to live with under section 23(5) of the Children Act 1989.

<sup>1</sup>Words in reg. 26(1)(b)(ii) substituted by reg. 54 of S.I. 1998/58 as from 6.4.98. Between 8.7.96 and 5.4.98. This reg. was 11(1)(c) or (f) as substituted by reg.15 of S.I. 1996/1803.

<sup>2</sup>Words inserted into head (ii) of reg. 26(1)(b) by reg. 53 of S.I. 1995/1045 as from 18.4.95.

<sup>3</sup>Words in reg. 27(2) inserted by reg. 24 of S.I. 1993/913 as from 5.4.93.

<sup>4</sup>Reg. 27A inserted by reg. 25 of S.I. 1993/913 as from 5.4.93.

<sup>5</sup>Words in the title substituted and words in paras. (1) & (2) inserted and substituted by reg. 3 of S.I. 2014/1386 as from 30.6.14.

(a) 1989 c. 41.

**Amount payable where absent parent is in receipt of income support or other prescribed benefit**

28.—(1) Where the conditions specified in section 43(1)(a) of the Act is satisfied in relation to an absent parent (assessable income to be nil where income support<sup>1</sup>, income-based jobseeker's allowance<sup>2</sup>, income-related employment and support allowance under Part 1 of the Welfare Reform Act,<sup>3</sup> or other prescribed benefit is paid), the prescribed conditions for the purposes of section 43(1)(b) of the Act are that—

- (a) the absent parent is aged 18 or over;
- (b) he does not satisfy the conditions in paragraph <sup>3</sup>3(1)(a) or (b) <sup>4</sup> of the relevant Schedule (income support family premium) <sup>4</sup> and does not have day to day care of any child (whether or not a relevant child)<sup>4</sup>; and
- (c) <sup>4</sup>his income does not include<sup>4</sup> one or more of the payments or awards specified in schedule 4 (other than by reason of a provision preventing receipt of overlapping benefits or by reason of a failure to satisfy the relevant contribution conditions).

(Note: it is assumed here that the amendment which applies to the opening part of reg. 28(1) does not also apply to the parenthesis in reg. 28(1)(b).)

(2) For the purposes of section 43(2)(a) of the Act, the prescribed amount shall be equal to the minimum amount prescribed in regulation 13(1) for the purposes of paragraph 7(1) of Schedule 1 to the Act.

<sup>5</sup><sup>6</sup>(3) Subject to paragraph (4), where—

- (a) an absent parent is liable under section 43 of the Act and this regulation to make payments in place of payments of child support maintenance with respect to two or more qualifying children in relation to whom there is more than one parent with care; or
- (b) that absent parent and his partner (within the meaning of regulation 2(1) of the Social Security (Claims and Payments) Regulations 1987<sup>(a)</sup>) are both liable to make such payments,

the prescribed amount mentioned in paragraph (2) shall be apportioned between the persons with care in the same ratio as the maintenance requirements of the qualifying child or children in relation to each of those persons with care bear to each other.<sup>4</sup>

(4) If, in making the apportionment requirement by paragraph (3), the effect of the application of regulation 2(2) would be such that the aggregate amount payable would be different from the amount prescribed in paragraph (2) the Secretary of State shall adjust that apportionment so as to eliminate that difference; and that adjustment shall be varied from time to time so as to secure that, taking one week with another and so far as is practicable, each person with care receives the amount which she would have received if no adjustment had been made under this paragraph.

(5) The provisions of Schedule 5 shall have effect in relation to case to which section 43 of the Act and this regulation apply.<sup>4</sup>

Signed by authority of the Secretary of State for Social Security.

20th July 1992

*Alistair Burt*  
Parliamentary Under-Secretary of State,  
Department of Social Security

<sup>1</sup>Words inserted after the words "income support" in reg. 28(1) by reg. 6(3) of S.I. 1996/1345 as from 7.10.96.

<sup>2</sup>Words inserted in reg. 28(1) by reg. 58(4) of S.I. 2008/1554 as from 27.7.08.

<sup>3</sup>Words in reg. 28(1)(b) substituted by reg. 55 of S.I. 1998/58 as from 6.4.98. Between 8.7.96 and 5.4.98 this reg. was 3(a) or (b) as substituted by reg. 16 of S.I. 1996/1803.

<sup>4</sup>Words inserted, and words substituted, in reg. 28(1) by reg. 26(1) of S.I. 1993/913 as from 5.4.93.

<sup>5</sup>Reg. 28(3), (4) and (5) inserted by reg. 26(2) of S.I. 1993/913 as from 5.4.93.

<sup>6</sup>Reg. 28(3) (effectively inserting para. (3)(b)) substituted by reg. 2(2) of S.I. 1993/925 as from 26.4.93.

(a) S.I. 1987/1968.

## SCHEDULE 1

Regulations 7(1), (2) and 8

## CALCULATION OF N AND M

## PART I

## EARNINGS

## Chapter 1

*Earnings of an employed earner*

1.—(1) Subject to sub-paragraphs (2) and (3), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus, commission, ►<sup>1</sup>payment in respect of overtime,◄ royalty or fee;
- <sup>2</sup>(aa) any profit-related pay, whether paid in anticipation of, or following, the calculation of profits;◄
- (b) any holiday pay except any payable more than 4 weeks after termination of the employment;
- (c) any payment by way of a retainer;
- <sup>3</sup>(d) any payments made by the parent’s employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the parent’s employer in respect of—
  - (i) travelling expenses incurred by that parent between his home and place of employment; and
  - (ii) expenses incurred by that parent under arrangements made of the care of a member of his family owing to that parent’s absence from home;◄
- (e) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978(a) (remedies and compensation for unfair dismissal);
- (f) any such sum as is referred to in section 112 of the Contributions and Benefits Act (certain sums to be earnings for social security purposes);
- (g) any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(b) or statutory maternity pay under Part V of the Social Security Act 1986(c);
- <sup>4</sup>(gg) any statutory paternity pay under Part 12ZA of the Contributions and Benefits Act ►<sup>5</sup>,◄ any statutory adoption pay under Part 12ZB of that Act(d) ►<sup>5</sup>or any statutory shared parental pay under Part 12ZC of that Act;◄◄
- (h) any payment in lieu of notice and any compensation in respect of the absence or inadequacy of any such notice but only insofar as such payment or compensation represents loss of income;
- (i) any payment relating to a period of less than a year which is made in respect of the performance of duties as—
  - (i) an auxiliary coastguard in respect of cost rescue activities;
  - (ii) ►<sup>6</sup>◄
  - <sup>7</sup>(iia) a part-time fire fighter employed by a fire and rescue authority;◄
  - <sup>6</sup>(iib) a part-time fire fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005 (asp 5)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;◄
  - (iii) a person engaged part-time in the manning or launching of a life-boat;

<sup>1</sup>Words inserted into head (a) of para. 1(1) by reg. 54(2) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>2</sup>Head 1(1)(aa) inserted by reg. 13(2)(a) of S.I. 1996/3196 as from 13.1.97.

<sup>3</sup>Para. 1(d) substituted by reg. 24(2) of S.I. 1996/1945 as from 7.10.96.

<sup>4</sup>Head (gg) inserted into para. 1(1) by reg. 5(2) of S.I. 2004/2415 as from 16.9.04.

<sup>5</sup>Words in para. 1(1)(gg) of Sch. 1 substituted & inserted by art. 6(a) & (b) of S.I. 2014/3255 as from 31.12.14.

<sup>6</sup>Head (ii) revoked and head (iib) added to para. 1(1) by para. 10 to part 2 to Sch. of S.I. 2005/2060 as from 2.8.05.

<sup>7</sup>Para. 1(1)(i)(iia) inserted by art. 28 of S.I. 2004/3168 as from 30.12.04.

(a) 1978 c. 44.

(b) 1982 c. 24.

(c) 1986 c. 50.

(d) Part 12ZA was inserted by section 2 of the Employment Act 2002 (c. 22) and Part 12ZB was inserted by section 4 of that Act.

(iv) a member of any territorial or reserve force prescribed in part I of Schedule 3 to the Social Security (Contributions) Regulations 1979(a);

*The said Part I of Sch. 3 to S.I. 1979/591 is reproduced at Annex 1 to this S.I.*

(j) any payment made by a local authority to a member of that authority in respect of the performance of his duties as a member, to her than any expenses wholly, exclusively and necessarily incurred in the performance of those duties.

(2) Earnings shall not include—

- (a) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment ►<sup>1</sup>except any such payment which is made in respect of housing costs and those housing costs are included in the calculation of the exempt or protected income of the absent parent under regulation 9(1)(b) or, as the case may be, regulation 11(1)(b) ◀;
- (b) any occupational pension;

<sup>1</sup>Words inserted into para. 1(2)(a) of Sch. 1 by reg. 56(2)(a) of S.I. 1998/58 as from 19.1.98.

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(a) S.I. 1979/591; the relevant amending instrument is S.I. 1980/1975.



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- (c) any payment where—
  - (i) the employment in respect of which it was made has ceased; and
  - (ii) a period of the same length as the period by reference to which it was calculated has expired since that cessation but prior to the effective date;
- (d) any advance of earnings or any loan made by an employer to an employee;
- (e) any amount received from an employer during a period when the employee has withdrawn his services by reason of a trade dispute;
- (f) any payment in kind;
- (g) where, in any week or other period which falls within the period by reference to which earnings are calculated earnings are received both in respect of a previous employment and in respect of a subsequent employment, the earnings in respect of the previous employment.
- ▶<sup>1</sup>(h) any tax-exempt allowance made by an employer to an employee ▶<sup>2</sup>except any such allowance which is made in respect of housing costs and those housing costs are included in the calculation of the exempt or protected income of the absent parent under regulation 9(1) or, as the case may be, regulation 11(1)(b)◀◀

<sup>1</sup>Head (h) inserted in para. (1)(3) by reg. 13(2)(b) of S.I. 1996/3196 as from 13.1.97.  
<sup>2</sup>Words inserted into para. 1(2)(h) by reg. 56(2)(b) of S.I. 1998/58 as from 19.1.98.

(3) The earnings to be taken into account for the purposes of calculating N and M shall be gross earnings less—

- (a) any amount deducted from those earnings by way of—
  - (i) income tax;
  - (ii) primary Class I contributions under the Contributions and Benefits Act ▶<sup>3</sup>or under the Social Security Contributions and Benefits (Northern Ireland) Act 1992◀; and
- (b) one half of any sums paid by the parent towards an occupational ▶<sup>4</sup>◀ pension scheme.
- ▶<sup>5</sup>(c) one half of any sums paid by the parent towards a personal pension scheme, or, where that scheme is intended partly to provide a capital sum to discharge a mortgage secured upon the parent's home, 37.5 per centum of any such sums.◀

<sup>3</sup>Words inserted into head (a)(ii) of para. 1(3) by reg. 54(3)(a) of S.I. 1995/1045 as from 18.4.95.

<sup>4</sup>Words "or personal" deleted in head (b) of para. 1(3) by reg. 54(3)(b) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>5</sup>Head (c) inserted into para. 1(3) by reg. 54(3)(c) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>6</sup>Para. 2(1) substituted by reg. 54(4) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>7</sup>Words in sub-para. 2(1) substituted by reg. 13(3)(a) of S.I. 1996/3196 as from 13.1.97.

<sup>8</sup>Words substituted in paras. 2(1) & (1A) by art. 19(a)(i) of S.I. 1999/1510 as from 1.6.99.

<sup>9</sup>Sub-para (1A) inserted by reg. 13(3)(b) of S.I. 1996/3196 as from 13.1.97.

<sup>10</sup>Words in para. (1A) substituted by reg. 6(6)(a) of S.I. 2003/328 as from 6.4.03.

<sup>11</sup>Sub-para. (2) substituted by reg. 13(3)(c) of S.I. 1996/3196 as from 13.1.97.

2.—▶<sup>6</sup>(1) Subject to sub-paragraphs ▶<sup>7</sup>(1A)◀ to (4), the amount of the earnings to be taken into account for the purpose of calculating N and M shall be calculated or estimated by reference to the average earnings at the relevant week having regard to such evidence as is available in relation to that person's earnings during such period as appears appropriate to the ▶<sup>8</sup>Secretary of State◀ beginning not earlier than eight weeks before the relevant week and ending not later than the date of the assessment and for the purpose of that calculation or estimate he may consider evidence of that person's cumulative earnings during the period beginning with the start of the year of assessment (within the meaning of section 832 of the Income and Corporation Taxes Act 1988(a) in which the relevant week falls and ending with a date no later than the date of the assessment.◀

▶<sup>9</sup>(1A) Subject to sub-paragraph (4), where a person has claimed, or has been paid, ▶<sup>10</sup>working tax credit or child tax credit◀ on any day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the ▶<sup>8</sup>Secretary of State◀ may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).◀

▶<sup>11</sup>(2) Where a person's earnings during the period of 52 weeks ending with the relevant week include—

- (a) a bonus, commission, or payment of profit-related pay made in anticipation of the calculation of profits which is paid separately from or in relation to a longer period than, the other earnings with which it is paid; or
- (b) a payment in respect of profit-related pay made following the calculation of the employer's profits,

(a) 1988 c. 1.

## Sch. 1

the amount of that bonus, commission or profit-related payment shall be the determined for the purposes of the calculation of earnings by aggregating any such payments received in that period and dividing by 52.◀

(3) Subject to sub-paragraph (4), the amount of any earnings of a student shall be determined by aggregating the amount received in the year ending with the relevant week and dividing by 52 or, where the person in question has been a student for less than a year, by aggregating the amount received in the period starting with his becoming a student and ending with the relevant week and dividing by the number of complete weeks in that period.

<sup>1</sup>Sub-para. 2(3A) inserted by reg. 13(3)(d) of S.I. 1998/3196 as from 13.1.97.

<sup>2</sup>Words substituted in para. (3A) & (4) by art. 19(a)(i) & (ii) of S.I. 1999/1510 as from 1.6.99.

▶<sup>1</sup>(3A) Where a case is one to which regulation 30A(1) or (3) of the Maintenance Assessment Procedure Regulations applies (effective dates of new maintenance assessments in particular cases), the term “relevant week” shall, for the purpose of this paragraph, mean the 7 days immediately proceeding the date on which the information or evidence is received which enables ▶<sup>2</sup>the Secretary of State◀ to make a new maintenance assessment calculation in accordance with the provisions of Part I of Schedule 1 to the Act in respect of that case for a period beginning after the effective date applicable to that case.◀

(4) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the ▶<sup>2</sup>Secretary of State◀, does not accurately reflect the normal amount of the earnings of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately and for this purpose the ▶<sup>2</sup>Secretary of State◀ shall have regard to—

- (a) the earnings received, or due to be received, from any employment in which the person in question is engaged, has been engaged or is due to be engaged;
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.

## Chapter 2

*Earnings of a self-employed earner*

<sup>3</sup>Paras. 2A-2C inserted by reg. 6(5)(a) of S.I. 1999/977 as from 4.10.99.

<sup>4</sup>Words omitted para. 2A(1)-(3) by reg. 4(2)(a)-(c) of S.I. 2007/1979 as from 1.8.07.

▶<sup>3</sup>2A.—(1) Subject to paragraphs ▶<sup>4</sup>◀ 2C, 4 and 5A, “earnings” in the case of employment as a self-employed earner shall have the meaning given by the following provisions of this paragraph.

(2) “Earnings” means the ▶<sup>4</sup>◀ taxable profits from self-employment of that earner ▶<sup>4</sup>◀, less the following amounts—

- (a) any income tax relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (3);
- (b) any National Insurance Contributions relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (4);
- (c) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the self-employed earner’s home, 37.5 per centum of the contributions payable.

(3) For the purposes of sub-paragraph (2)(a) the income tax to be deducted from the ▶<sup>4</sup>◀ taxable profits shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of earnings ▶<sup>5</sup>◀ calculated as if it were equivalent to any personal allowance which would be ◀ applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988(a) (personal reliefs) shall be disregarded;
- (b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the earnings remaining following the application of head(a) (the “remaining earnings”);

<sup>5</sup>Words substituted in para. 2A(3)(a) by reg. 4(2)(a) of S.I. 2005/785 as from 16.3.05.

(a) 1988 c. 1.

- (c) the tax rate applicable at the effective date shall be applied to all the remaining earnings, where necessary increasing or reducing the amount payable to take account of the fact that the earnings relate to a period greater or less than one year;
- (d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the taxable profits bears to the period of one year.

(4) For the purposes of sub-paragraph (2)(b) above, the amount to be deducted in respect of National Insurance Contributions shall be the total of—

- (a) the amount of Class 2 contributions (if any) payable under <sup>1</sup>section 11(2) or, as the case may be, (8) of the Contributions and Benefits Act; and
- (b) the amount of Class 4 Contributions (if any) payable under section 15(2) of that Act,

<sup>1</sup>Words in para. 2A(4)(a) of Sch. 1 substituted by reg. 28 of S.I. 2015/478 as from 6.4.15.

at the rates applicable at the effective date.

<sup>2</sup>(5) For the purposes of this paragraph, “taxable profits” means profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005.

<sup>2</sup>Sub-para. (5) & (6) inserted, 2C substituted & 2B omitted by reg. 4(2)(d), 4(3) & (4) of S.I. 2007/1979 as from 1.8.07.

(6) A self-employed earner who is a person with care or an absent parent shall provide to the Secretary of State on demand a copy of—

- (a) any tax calculation notice issued to him by Her Majesty’s Revenue and Customs; and
- (b) any revised notice issued to him by Her Majesty’s Revenue and Customs.

**2B.**

<sup>2</sup>2C. Where the Secretary of State accepts that it is not reasonably practicable for a self-employed earner to provide any of the information specified in paragraph 2A(6), “earnings” in relation to that earner shall be calculated in accordance with paragraph 3.

3.—(1) <sup>3</sup>Where paragraph 2C applies and subject to sub-paragraphs (2) and (3) and to paragraph 4, “earnings” in the case of employment as a self-employed earner means the gross receipts of the employment including, where an allowance in the form of periodic payments is paid under section 2 of the Employment and Training Act 1973(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) in respect of the relevant week for the purpose of assisting him in carrying on his business, the total of those payments made during the period by reference to which his earnings are determined under paragraph 5.

<sup>3</sup>Words inserted in para. 3 by reg. 6(5)(b) of S.I. 1999/977 as from 4.10.99.

(2) Earnings shall not include—

- (a) any allowance paid under either of those sections in respect of any part of the period by reference to which his earnings are determined under paragraph 5 if no part of that allowance is paid in respect of the relevant week;
- (b) any income consisting of payments received for the provision of board and lodging accommodation unless such payments form the largest element of the recipient’s income.

(3) <sup>4</sup>Subject to sub-paragraph (7), there shall be deducted from the gross receipts referred to in sub-paragraph (1)

<sup>4</sup>Words inserted in para. 3(3) by reg. 27(1)(a) of S.I. 1993/913 as from 5.4.93.

- (a) <sup>5</sup>except in a case to which paragraph 4 applies, any expenses which are reasonably incurred and are wholly and exclusively defrayed for the purposes of the earner’s business in the period by reference to which his earnings are determined under paragraph 5(1) or, where paragraph 5(2) applies, any such expenses relevant to the period there mentioned (whether or not defrayed in that period);

<sup>5</sup>Words inserted in para. 3(3)(a) by reg. 27(1)(b) of S.I. 1993/913 as from 5.4.93.

(a) 1973 c. 50; section 2 was amended by sections 9 and 11 of, and Schedule 2, Part II, paragraph 9 and Schedule 3, to the Employment and Training Act 1981 (c. 57).

(b) 1990 c. 35.

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<sup>1</sup>Words inserted in para. 3(3)(b) by reg. 27(1)(b) of S.I. 1993/913 as from 5.4.93.

<sup>2</sup>Words "or 5(2)" inserted into para. 3(3)(b) by reg. 54(5)(a) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>3</sup>Words inserted into para. 3(3)(e) by reg. 54(5)(b) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>4</sup>Paras. 3(4)(b)(i), (iii)-(v) and (vii) omitted by reg. 4(5) of S.I. 2007/1979 as from 1.8.07.

<sup>5</sup>Para. 3(5) substituted by reg. 13(4) of S.I. 1996/3196 as from 13.1.97.

<sup>6</sup>Words substituted in para. 3(5)(a) by reg. 4(2)(b) of S.I. 2005/785 as from 16.3.05.

<sup>7</sup>Words in head (b) of para. 3(5) to Sch. 1 inserted by reg. 56(3)(a) of S.I. 1998/58 as from 19.1.98.

<sup>8</sup>Head (bb) inserted into para. 3(5) to Sch. 1 by Reg. 56(3)(b) of S.I. 1998/58 as from 19.1.98.

<sup>9</sup>Words in para. 3(6)(a) of Sch. 1 substituted by reg. 28 of S.I. 2015/478 as from 6.4.15.

- (b) ►<sup>1</sup>except in a case to which paragraph 4 ►<sup>2</sup>or 5(2)◄ applies,◄ any value added tax paid in the period by reference to which earnings are determined in excess of value added tax received in that period;
- (c) any amount in respect of income tax determined in accordance with sub-paragraph (5);
- (d) any amount in respect of National Insurance contributions determined in accordance with sub-paragraph (6);
- (e) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme ►<sup>3</sup>or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the parent's home, 37.5 per centum of the contributions payable◄.

## (4) For the purposes of sub-paragraph (3)(a)–

- (a) such expenses include–
  - (i) repayment of capital on any loan used for the replacement, in the course of business, of equipment or machinery, or the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (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;
  - (iii) any payment of interest on a loan taken out for the purposes of the business;

## (b) such expenses do not include–

►<sup>4</sup>◄

- (ii) any capital expenditure;

►<sup>4</sup>◄

- (vi) any expenses incurred in providing business entertainment.

►<sup>4</sup>◄

►<sup>5</sup>(5) For the purposes of sub-paragraph (3)(c), the amount in respect of income tax shall be determined in accordance with the following provisions–

- (a) subject to head (c), an amount of chargeable earnings ►<sup>6</sup>calculated as if it were equivalent to any personal allowance which would be◄ applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporate Taxes Act 1988 (Personal Relief) shall be disregarded;
- (b) ►<sup>7</sup>subject to head (bb),◄ an amount equivalent to income tax shall be calculated with respect to taxable earnings at the rates applicable at the effective date;
- <sup>8</sup>(bb) where taxable earnings are determined over a period of less or more than one year, the amount of earnings to which each tax rate applies shall be reduced or increased in the same proportion to that which the period represented by the chargeable earnings bears to the period of one year;◄
- (c) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by chargeable earnings bears to the period of one year;
- (d) in this sub-paragraph, "taxable earnings" means the chargeable earnings of the earner following the disregard of any applicable personal allowance.◄

## (6) For the purposes of sub-paragraph (3)(d), the amount to be deducted in respect of National Insurance contributions shall be the total of–

- (a) the amount of Class 2 contributions (if any) payable under ►<sup>9</sup>section 11(2) or, as the case may be, (8)◄ of the Contributions and Benefits Act; and
- (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act,



at the rates applicable ►<sup>1</sup>to the chargeable earnings◄ at the effective date.

►<sup>2</sup>(7) 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(a), sub-paragraph (3) shall have effect as though it requires—

- (a) a deduction from the earner's estimated or, where appropriate, actual share of the gross receipts of the partnership or fishing boat, of his share of the sums likely to be deducted or, where appropriate, deducted from those gross receipts under heads (a) and (b) of that sub-paragraph; and
- (b) a deduction from the amount so calculated of the sums mentioned in heads (c) to (e) of that sub-paragraph.◄

►<sup>3</sup>(8) In sub-paragraphs (5) and (6) "chargeable earnings" means the gross receipts of the employment less any deductions mentioned in sub-paragraph (3)(a) and (b).◄

4. In a case where a person is self-employed as a childminder the amount of earnings referable to that employment shall be one-third of the gross receipts.

5.—(1) Subject to sub-paragraphs ►<sup>4</sup>(2) to (3)◄—

- (a) where a person has been a self-employed earner for 52 weeks or more including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received in the 52 weeks ending with the relevant week;
- (b) where the person has been a self-employed earner for a period of less than 52 weeks including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received during that period.

(2) ►<sup>5</sup>Subject to sub-paragraph (2A), where◄ a person who is a self-employed earner provides in respect of the employment a profit and loss account and, where appropriate, a trading account or a balance sheet or both, and the profit and loss accounts in respect of a period at least 6 months but not exceeding 15 months and that period terminates within the ►<sup>6</sup>24 months◄ immediately preceding the effective date, the amount of his earnings shall be determined by reference to the average of the earnings over the period to which the profit and loss account relates and such earnings shall include receipts relevant to that period (whether or not received in that period).

►<sup>7</sup>(2A) Where the ►<sup>8</sup>Secretary of State◄ is satisfied that, in relation to the person referred to in sub-paragraph (2) there is more than one profit and loss account, each in respect of different periods, both or all of which satisfy the conditions mentioned in that sub-paragraph, the provisions of that sub-paragraph shall apply only to the account which relates to the latest such period, unless ►<sup>8</sup>the Secretary of State◄ is satisfied that the latest such account is not available for reasons beyond the control of that person, in which case he may have regard to any such other account which satisfies the requirements of that sub-paragraph.◄

(3) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the ►<sup>8</sup>Secretary of State◄, does not accurately reflect the normal amount of the earnings of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately and for this purpose the ►<sup>8</sup>Secretary of State◄ shall have regard to—

- (a) the earnings received, or due to be received, from any employment in which the person in question is engaged, or has been engaged or is due to be engaged;
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.

<sup>1</sup>Words inserted in para. 3(6) by reg. 27(30) of S.I. 1993/913 as from 5.4.95.

<sup>2</sup>Para. 3(7) substituted by reg. 54(8) of S.I. 1995/1045 as from 18.4.95.

<sup>3</sup>Para. 3(8) inserted by reg. 27(4) of S.I. 1993/913 as from 5.4.93.

<sup>4</sup>Words in para. 5(1) substituted by reg. 54(9) (a) of S.I. 1995/1045 as from 18.4.95.

<sup>5</sup>Words in para. 5(2) substituted for "where" by reg. 54(9)(b)(i) of S.I. 1995/1045 as from 18.4.95.

<sup>6</sup>Words in para. 5(2) substituted for "12 months" by reg. 54(9)(b)(ii) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>7</sup>Para. 5(2A) inserted by reg. 54(9)(c) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

<sup>8</sup>Words substituted in paras. (2A)(3)(5) & 5A(3) by art. 19(b)(i) & (ii) of S.I. 1999/1510 as from 1.6.99.

(a) S.I. 1975/470.



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(4) In sub-paragraph (2)–

- (a) “balance sheet” means a statement of the financial position of the employment disclosing its assets, liabilities and capital at the end of the period in question;
- (b) “profit and loss account” means a financial statement showing net profit or loss of the employment for the period in question; and
- (c) “trading account” means a financial statement showing the revenue from sales, the cost of those sales and the gross profit arising during the period in question.

<sup>1</sup>Sub-para (5) inserted by reg. 13(5) of S.I. 1995/3196 as from 13.1.97.

<sup>2</sup>Words in para. 5(5) substituted by reg. 6(6)(a) of S.I. 2003/328 as from 6.4.03.

<sup>3</sup>Words substituted in para. (5) by art. 19(b)(5)(ii) of S.I. 1999/1510 as from 1.6.99.

<sup>4</sup>Sub-para. (6) and para. 5A inserted by reg. 6(5)(c) & (d) as from 4.10.99.

<sup>5</sup>Words in paras. 5A(1) & (2) and sub-para. (3) omitted by reg. 4(5)(a) & (b) of S.I. 2007/1979 as from 1.8.07.

►<sup>1</sup>(5) Subject to sub-paragraph (3), where a person has claimed, or has been paid, ►<sup>2</sup>working tax credit or child tax credit◄ on a day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the ►<sup>3</sup>Secretary of State◄ may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).◄

►<sup>4</sup>(6) This paragraph applies only where the earnings of a self-employed earner have the meaning given by paragraph 3 of this Schedule.

**5A.**—(1) Subject to sub-paragraph (2) of this paragraph, the earnings of a self-employed earner may be determined in accordance with the provisions of paragraph 2A only where the ►<sup>5</sup>◄ taxable profits concerned relate to a period of not less than 6, and not more than 15 months, which terminated not more than 24 months prior to the relevant week;

(2) Where there is more than one week ►<sup>5</sup>◄ taxable profit figure which would satisfy the conditions set out in sub-paragraph (1), the earnings calculation shall be based upon the figure pertaining to the latest such period;

(3) ►<sup>5</sup>◄◄

## CHAPTER 3

*Estimate of earnings where insufficient information available*

<sup>6</sup>Para. 5B inserted in Sch. 1 by reg. 5 of S.I. 2012/712 as from 30.4.12.

►<sup>6</sup>**5B.**—(1) Where the Commission is calculating earnings of an employed earner or a self-employed earner under Part 1 of Schedule 1 and the information available in relation to those earnings is insufficient or unreliable, the Commission may estimate those earnings and in doing so, may make any assumptions as to any fact.

(2) Where the Commission is satisfied that the person is engaged in a particular occupation, whether as an employee or a self-employed person, the assumptions referred to in sub-paragraph (1) may include an assumption that the person has the average weekly earnings of a person engaged in that occupation in the United Kingdom or in any part of the United Kingdom. ◄

## PART II

### BENEFIT PAYMENTS

6.—(1) The benefit payments to be taken into account in calculating or estimating N and M shall be determined in accordance with this Part.

(2) “Benefit payments” means any benefit payments under the Contributions and Benefits Act<sup>1</sup>, the Jobseekers Act<sup>2</sup>, the Welfare Reform Act or Part 1 of the Pensions Act 2014<sup>3</sup> except amounts to be disregarded by virtue of Schedule 2.

*Such benefit payments are listed at Annex 5 to this S.I.*

(3) The amount of any benefit payment to be taken into account shall be determined by reference to the rate of that benefit applicable at the effective date.

7.—(1) Where a benefit payment under the Contributions and Benefits Act includes an adult or child dependency increase—

- (a) if that benefit is payable to a parent, the income of that parent shall be calculated or estimated as if it did not include that amount;
- (b) if that benefit is payable to some other person but includes an amount in respect of the parent, the income of the parent shall be calculated or estimated as if it included that amount.

<sup>3</sup>(1A) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker’s allowance under <sup>4</sup>regulation 10(4)<sup>4</sup> of the Jobseekers’s Allowance (Transitional Provisions) Regulations <sup>4</sup>1996(a)<sup>4</sup> shall be treated as a dependency increase included with a benefit under the Contributions and Benefits Act.<sup>4</sup>

(2)-(5) <sup>5</sup>

<sup>1</sup>Words substituted in para. 6(2) by Sch. 1 by reg. 58(5) of S.I. 2008/1554 as from 27.7.08.

<sup>2</sup>Words in para. 6(2) of Sch. 1 substituted by reg. 14(3) of S.I. 2015/1985 as from 6.4.16.

<sup>3</sup>Para. 7(1A) inserted in Sch. 1 by reg. 6(4)(a) of S.I. 1996/1345 as from 7.10.96.

<sup>4</sup>Words substituted in para. 7(1A) by reg. 6(5)(e) of S.I. 1999/977 as from 6.4.99.

<sup>5</sup>Sub-paras. (2)-(5) of para. 7 omitted by reg. 6(6)(b) of S.I. 2003/328 as from 6.4.03.

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(a) S.I. 1996/2567.

## Sch. 1

<sup>1</sup>Sub-para. 7(6) inserted by reg. 17(2) of S.I. 1996/1803 as from 8.7.96.

▶<sup>1</sup>(6) Where child benefit in respect of a relevant child is in payment at the rate specified in regulation 2(1)(a)(ii) of the Child Benefit Rates Regulations, the difference between that rate and the basic rate applicable to that child, as defined in regulation 4.◀

## PART III

## OTHER INCOME

**8.** The amount of the other income to be taken into account in calculating or estimating N and M shall be the aggregate of the following amounts determined in accordance with this Part.

**9.** Any periodic payment of pension or other benefit under an occupational or personal pension scheme or a retirement annuity contract or other such scheme for the provision of income in retirement.

<sup>2</sup>Para. 9A inserted by reg. 6(5)(f) of S.I. 1999/977 as from 6.4.99.

▶<sup>2</sup>9A.—(1) Where a war disablement pension includes an adult or child dependency increase—

- (a) if that pension, including the dependency increase, is payable to a parent, the income of that parent shall be calculated or estimated as if it did not include that amount;
- (b) if that pension, including the dependency increase, is payable to some other person but includes an amount in respect of the parent, the income of the parent shall be calculated or estimated as if it included that amount.

<sup>3</sup>Words substituted in para. 9A(2) by para. 2(4)(a) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

(2) For the purposes of this paragraph, a “war disablement pension” includes ▶<sup>3</sup>a war widow’s pension, a war widower’s pension and a surviving civil partner’s war pension◀, a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government of a country outside Great Britain.◀

**10.** Any payment received on account of the provision of board and lodging which does not come within Part I of this Schedule.

**11.** Subject to regulation 7(3)(b) and paragraph 12, any payment to a student of—

- (a) grant;
- (b) an amount in respect of grant contribution;
- (c) covenant income except to the extent that it has been taken into account under sub-paragraph (b);
- (d) a student loan.

**12.** The income of a student shall not include any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) intended to meet additional expenditure incurred by disabled student in respect of his attendance on a course;
- (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 he resides during his course;
- (e) intended to meet the cost of books, and equipment (other than special equipment) or, if not so intended, an amount equal to the amount allowed under ▶<sup>4</sup>regulation 62(2A)(b) of the Income Support (General) Regulations 1987(a) towards such costs;◀

<sup>4</sup>Words in para. 12(e) substituted by reg. 6(6)(c) of S.I. 2003/328 as from 6.4.03.

*The amount so allowed under the said reg. 38(2)(f) is £278. (This amount was substituted for £276 by reg. 3(2)(c) of S.I. 1995/1742 as from 5.9.95.)*

- (f) intended to meet travel expenses incurred as a result of his attendance on the course.

**13.** Any interest, dividend or other income derived from capital.

**14.** Any maintenance payments in respect of a parent.

<sup>5</sup>Para 14A inserted by reg. 24(4) of S.I. 1996/1945 as from 7.10.96.

▶<sup>5</sup>14A.—(1) Subject to sub-paragraph (2), the amount of any earnings top-up paid to or in respect of the absent parent or the parent with care.

(a) S.I. 1987/1967. Regulation 62(2A) was inserted by S.I. 1992/468, substituted by S.I. 1999/1935 and amended by S.I. 2001/2319 and 2002/1589.

(2) Subject to sub-paragraphs (3) and (4), where earnings top-up is payable and the amount which is payable has been calculated by reference to the weekly earnings of either the absent parent and another person or the parent with care and another person—

- (a) if during the period which is used to calculate his earnings under paragraph 2 or, as the case may be, paragraph 5, the normal weekly earnings of that parent exceed those of the other person, the amount payable by way of earnings top-up shall be treated as the income of that parent;
- (b) if during that period, the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of earnings top-up shall be treated as the income of that parent;
- (c) if during that period, the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of earnings top-up shall both be treated as the income of that parent.

(3) Where any earnings top-up is in payment and, not later than the effective date, the person, or, if more than one, each of the persons by reference to whose engagement and normal engagement in remunerative work that payment has been calculated is no longer the partner of the person to whom the payment is made, the payment in question shall be treated as the income of the parent in question only where that parent is in receipt of it.

(4) Where earnings top-up is in payment and, not later than the effective date, either or both of the persons by reference to whose engagement and normal engagement in remunerative work that payment has been calculated has ceased to be employed, half of the amount payable by way of earnings top-up shall be treated as the income of the parent in question. ◀

▶14B. - (1) Subject to sub-paragraph (2), payments to a person of working tax credit shall be treated as the income of the parent who has qualified for them by his normal engagement in remunerative work at the rate payable at the effective date.

Para. 14B inserted by reg. 6(6)(d) of S.I. 2003/328 as from 6.4.03.

(2) Where working tax credit is payable and the amount which is payable has been calculated by reference to the earnings of the absent parent and another person—

- (a) if during the period which is used to calculate his earnings under paragraph 2 or, as the case may be, paragraph 5, the normal weekly earnings of that parent exceed those of the other person, the amount payable by way of working tax credit shall be treated as the income of that parent;
- (b) if during that period the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of working tax credit shall be treated as the income of that parent; and
- (c) if during that period the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of working tax credit shall not be treated as the income of that parent. ◀

15. Any other payments or other amounts received on a periodical basis which are not otherwise taken into account under Part I, II, IV or V of this Schedule ▶except payments or other amounts which

- (a) are excluded from the definition of “earnings” by virtue of paragraph 1(2);
- (b) are excluded from the definition of “the relevant income of a child” by virtue of paragraph 23; or
- (c) are the share of housing costs attributed by virtue of paragraph (3) of regulation 15 to any former partner of the parent of the qualifying child in respect of whom the maintenance assessment is made and are paid to that parent. ◀

Words substituted in para. 15 of Sch. 1 by reg. 6(4) of S.I. 1998/58 as from 19.1.98.

16.—(1) Subject to sub-paragraphs (2) to ▶(7)◀ the amount of any income to which this Part applies shall be calculated or estimated—

- (a) where it has been received in respect of the whole of the period of 26 weeks which ends at the end of the relevant week, by dividing such income received in that period by 26;
- (b) where it has been received in respect of part of the period of 26 weeks which ends at the end of the relevant week, by dividing such income received in that period by the number of complete weeks in respect of which such income is received and for this purpose income shall be treated as received in respect of a week if it is received in respect of any day in the week in question.

Para. no. in para. 16(1) substituted by reg. 6(6)(e)(i) of S.I. 2003/328 as from 6.4.03.

(2) The amount of maintenance payments made in respect of a parent—

- (a) where they are payable weekly and have been paid at the same amount in respect of each week in the period of 13 weeks which ends at the end of the relevant week, shall be the amount equal to one of those payments;

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(b) in any other case, shall be the amount calculated by aggregating the total amount of those payments received in the period of 13 weeks which ends at the end of the relevant week and dividing by the number of weeks in that period in respect of which maintenance was due.

(3) In the case of a student—

(a) the amount of any grant and any amount paid in respect of grant contribution shall be calculated by apportioning it equally between the weeks in respect of which it is payable;

(b) the amount of any covenant income shall be calculated by dividing the amount payable in respect of a year by 52 (or, where such amount is payable in respect of a lesser period, by the number of complete weeks in that period) and, subject to sub-paragraph (4), deducting £5.00;

(c) the amount of any student loan shall be calculated by apportioning the loan equally between the weeks in respect of which it is payable and, subject to sub-paragraph (4), deducting £10.00.

(4) For the purposes of sub-paragraph (3)—

(a) not more than £5.00 shall be deducted under sub-paragraph (3)(b);

(b) not more than £10.00 in total shall be deducted under sub-paragraphs (3)(b) and (c).

(5) Where in respect of the period of 52 weeks which ends at the end of the relevant week a person is in receipt of interest, dividend or other income which has been reproduced by his capital, the amount of that income shall be calculated by dividing the aggregate of the income so received by 52.

(6) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the ►Secretary of State◄, does not accurately reflect the normal amount of the other income of the person in question, such income, or any part of it, shall be calculated by reference to such other period as may, in the particular case, enable the other income of that person to be determined more accurately and for this purpose the ►Secretary of State◄ shall have regard to the nature and pattern of receipt of such income.

►(7) This paragraph shall not apply to payments of working tax credit referred to in paragraph 14B.◄

Words substituted in para. (6) by art. 19(c) of S.I. 1999/1510 as from 1.6.99.

Sub-para. (7) inserted in para. 16 by reg. 6(6)(e)(ii) of S.I. 2003/328 as from 6.4.03.

## PART IV

## INCOME OF CHILD TREATED AS INCOME OF PARENT

**17.** The amount of any income of a child which is to be treated as the income of the parent in calculating or estimating N and M shall be the aggregate of the amounts determined in accordance with this Part.

**18.** Where a child has income which falls within the following paragraphs of this Part and that child is a member of the family of his parent (whether that child is a qualifying child in relation to that parent or not), the relevant income of that child shall be treated as that of his parent.

**19.** Where child support maintenance is being assessed for the support of only one qualifying child, the relevant income of that child shall be treated as that of the parent with care.

**20.** Where child support maintenance is being assessed to support more than one qualifying child, the relevant income of each of those children shall be treated as that of the parent with care to the extent that it does not exceed the aggregate of—

(a) the amount determined under—

(i) regulation 3(1)(a) (calculation of AG) in relation to the child in question; and

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- (ii) the total of any other amounts determined under regulation 3(1)(b) and (c) which are applicable in the case in question divided by the number of children for whom child support maintenance is being calculated,

less the basic rate of child benefit (within the meaning for regulation 4) for the child in question; and

- (b) one-and-a-half times the total of the amounts calculated under regulation 3(1)(a) (income support personal allowance for child or young person) in respect of that child and regulation 3(1)(c) (income support family premium).

21. Where child support maintenance is not being assessed for the support of the child whose income is being calculated or estimated, the relevant income of that child shall be treated as that of this parent to the extent that it does not exceed the amount determined under regulation 9(1)(g).

22.—(1) Where a benefit under the Contributions and Benefits Act includes an adult or child dependency increase in respect of a relevant child, the relevant income of that child shall be calculated or estimated as if it included that amount.

(1A) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker's allowance under regulation 10(4) of the Jobseeker's Allowance (Transitional Provisions) Regulation 1996(a) shall be treated as a dependency increase included with a benefit under the Contributions and Benefits Act.

(1B)—(1) Where a war disablement pension includes a dependency allowance paid in respect of a relevant child, the relevant income of that child shall be calculated or estimated as if it included that amount.

(2) For the purposes of this paragraph, a "war disablement pension" includes a war widow's pension, a war widower's pension and a surviving civil partner's war pension, a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government to a country outside Great Britain.

23. For the purposes of this Part, "the relevant income of a child" does not include—

- (a) any earnings of the child in question;
- (b) payments by an absent parent to the child for whose maintenance is being assessed;
- (c) where the class of persons who are capable of benefiting from a discretionary trust include the child in question, payments from that trust except in so far as they are made to provide for food, ordinary clothing and footwear, gas, electricity or fuel charges or housing costs; or
- (d) any interest payable on arrears of child support maintenance for that child;
- (e) the first £10 of any other income of that child.

24. The amount of the income of a child which is treated as the income of the parent shall be determined in the same way as if such income were the income of the parent.

Words in para. 20(a)(ii) substituted by reg. 17(3)(a) of S.I. 1996/1803 as from 8.7.96.

Words substituted in para. 20(b) for "three times" by reg. 54(10) of S.I. 1995/1045 as from 18.4.94. (subj. to reg. 63(1) and (5) *ibid.*; see also reg. 64(1) and (2) *ibid.*).

Words in para. 20(b) substituted by reg. 56(5) of S.I. 1998/58 as from 19.1.98. Between 8.7.96 and 5.4.98 this reg. was 3(1)(c)(i) as substituted by reg. 17(3)(b) of S.I. 1996/1803.

Para 22 re-numbered as para. 22(1) and para. 22(1A) inserted in Sch. 1 by reg. 6(4)(b) of S.I. 1996/1345 as from 7.10.96.

Words in para. (1A) substituted by reg. 6(5)(g) of S.I. 1999/977 as from 6.4.99.

Para. 22(1B) inserted by reg. 6(5)(h) of S.I. 1999/977 as from 6.4.99.

Words substituted in para. 22(1B)(2) by para. 2(4)(b) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

Words substituted in para. 23(b) of Sch. 1. by reg. 56(6) of S.I. 1998/58 as from 19.1.98.

Para. 23(e) added by reg. 54(11) of S.I. 1995/1045 as from 18.4.95 (subj. to reg. 63(1) and (5) *ibid.*; see also eg. 64(1) and (2) *ibid.*).

(a) S.I. 1996/2567.



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## PART V

### AMOUNTS TREATED AS THE INCOME OF A PARENT

25. The amounts which fall to be treated as income of the parent in calculating or estimating N and M shall include amounts to be determined in accordance with this Part.

26. Where ►the Secretary of State◄ is satisfied—

- (a) that a person has performed a service either—
  - (i) without receiving any remuneration in respect of it; or
  - (ii) for remuneration which is less than that normally paid for that service;
- (b) that the service in question was for the benefit of—
  - (i) another person who is not a member of the same family as the person in question; or
  - (ii) a body which is neither a charity nor a voluntary organisation;
- (c) that the service in question was performed for a person who, or as the case may be, a body which was able to pay remuneration at the normal rate for the service in question;
- (d) that the principal purpose of the person undertaking the service without receiving any or adequate remuneration is to reduce his assessable income for the purposes of the Act; and
- (e) that any remuneration foregone would have fallen to be taken into account as earnings,

(a) Words substituted in para. 26 by art. 19(d) of S.I. 1999/1510 as from 1.6.99.

the value of the remuneration foregone shall be estimated by ►the Secretary of State◄ and an amount equal to the value so estimated shall be treated as income of the person who performed those services.

27. Subject to paragraphs 28 to 30, where the ►Secretary of State◄ is satisfied that, otherwise than in the circumstances set out in paragraph 26, a person has intentionally deprived himself of—

- (a) any income or capital which would otherwise be a source of income;
- (b) any income or capital which it would be reasonable to expect would be secured by him,

(b) Words substituted in para. 27 by art. 19(e) of S.I. 1999/1510 as from 1.6.99.

with a view to reducing the amount of his assessable income, his net income shall include the amount estimated by ►the Secretary of State◄ as representing the income which that person would have had if he had not deprived himself of or failed to secure that income, or as the case may be, that capital.

See note (a).

28. No amount shall be treated as income by virtue of paragraph 27 in relation to—

- (a) if the parent satisfies the conditions for payment of the rate of child benefit specified in regulation 2(1)(a)(ii) of the Child Benefit Rates Regulations, an amount representing the difference between that rate and the basic rate, as defined in regulation 4;◄
- (b) if the parent is a person to, or in respect of, whom income support is payable, ►a contribution-based jobseeker's allowance◄;
- (c) a payment from a discretionary trust or a trust derived from a payment made in consequence of a personal injury.

Sub-para 28(a) substituted by reg. 17(4) of S.I. 1996/1803 as from 8.7.96.

Words substituted for "unemployment benefit" in para 28(b) by reg. 6(4)(c) of S.I. 1996/1345 as from 7.10.96.

29. Where an amount is included in the income of a person under paragraph 27 in respect of income which would become available to him on application, the amount included under that paragraph shall be included from the date on which it could be expected to be acquired.

30. Where ►the Secretary of State◄ determines under paragraph 27 that a person has deprived himself of capital which would otherwise be a source of income, the amount of that capital shall be reduced at intervals of 52 weeks, starting with the week which falls 52 weeks after the first week in respect of which income from it is included in the calculation of the assessment in question, by an amount equal to the amount which the ►Secretary of State◄ estimates would represent the income from that source in the immediately preceding period of 52 weeks.

See note (a).

See note (b).

Words substituted in  
para. 31 by art. 19(e) of  
S.I. 1999/1510 as from  
1.6.99.

**31.** Where a payment is made on behalf of a parent or a relevant child in respect of food, ordinary clothing or footwear, gas, electricity or fuel charges, housing costs or council tax, an amount equal to the amount which the ►Secretary of State◄ estimates represents the value of that payment shall be treated as the income of the parent in question except to the extent that such amount is—

- (a) disregarded under paragraph 38 of Schedule 2;
- (b) a payment of school fees paid by or on behalf of someone other than the absent parent.

**32.** Where paragraph 26 applies the amount to be treated as the income of the parent shall be determined as if it were earnings from employment as an employed earner and in a case to which paragraph 27 or 31 applies the amount shall be determined as if it were other income to which Part III of this Schedule applies.

SCHEDULE 2

Regulations 7(2) and 8

AMOUNTS TO BE DISREGARDED WHEN CALCULATING OR ESTIMATING N and M

1. The amounts referred to in this Schedule are to be disregarded when calculating or estimating N and M (parent's net income).
2. An amount in respect of income tax applicable to the income in question where not otherwise allowed for under these Regulations.
3. Where a payment is made in a currency other than sterling, an amount equal to any banking charge or commission payable in converting that payment to sterling.
4. Any amount payable in a country outside the United Kingdom where there is a prohibition against the transfer to the United Kingdom of that amount.
5. Any compensation for personal injury and any payments from a trust fund set up for that purpose.
6. Any advance of earnings or any loan made by an employer to an employee.
7. Any payment by way of, or reduction or discharge of liability resulting from entitlement to, housing benefit or council tax benefit.
- ▶<sup>1</sup>7A. Any payment of universal credit.◀
8. Any disability living allowance, mobility supplement or any payment intended to compensate for the non-payment of any such allowance or supplement.
9. Any payment which is—
  - (a) an attendance allowance under section 64 of the Contributions and Benefits Act;
  - (b) an increase of disablement pension under section 104 or 105 of that Act (increases where constant attendance needed or for exceptionally severe disablement);
  - (c) a payment made under regulations made in exercise of the power conferred by Schedule 8 to that Act (payments for pre- 1948 cases);

<sup>1</sup>Para. 7A inserted in Sch. 2 by reg. 41(4) of S.I. 2013/630 as from 29.4.13.

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- (d) an increase of an allowance payable in respect of constant attendance under that Schedule;
- (e) payable by virtue of articles 14,15,16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(a) (allowances for constant attendance and exceptionally severe disablement and severe disablement occupational allowance) or any analogous payment; or
- (f) a payment based on the need for attendance which is paid as part of a war disablement pension.

**10.** Any payment under section 148 of the Contributions and Benefits Act (pensioners' Christmas bonus).

**11.** Any social fund payment within the meaning of Part VIII of the Contributions and Benefits Act.

**12.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**13.** Any payment made by the Secretary of State to compensate for loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983(b).

**14.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

**15.** Any concessionary payment made to compensate for the non-payment of income support<sup>1</sup>, state pension credit<sup>2</sup>, income-based jobseeker's allowance, disability living allowance, personal independence payment, armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, or any payment to which paragraph 9 applies.

**16.** Any payments of child benefit to the extent that they do not exceed the basic rate of that benefit as defined in regulation 4.

**17.** Any payment made under regulations 9 to 11 or 13 of the Welfare Food Regulations 1988(c) (payments made in place of milk tokens or the supply of vitamins).

**18.** Subject to paragraph 20 and to the extent that it does not exceed £10.00–

- (a) war disablement pension or war widow's pension<sup>3</sup> or war widower's pension<sup>4</sup> or a payment made to compensate for non-payment of such a pension;
- (b) a pension paid by the government of a country outside Great Britain and which either–
  - (i) is analogous to a war disablement pension; or
  - (ii) is analogous to a war widow's pension<sup>5</sup> or war widower's pension<sup>6</sup>.

**18A.** Subject to paragraph 20(d), and to the extent that it does not exceed £10.00, a payment made in respect of a parent under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(e) (compensation schemes for armed and reserve forces).

**19.—(1)** Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 20, 38 and 47, up to £20.00 of any charitable or voluntary payment made, or due to be made, at regular intervals.

(2) Subject to sub-paragraph (3) and paragraphs 38 and 47, any charitable or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than food, ordinary clothing or footwear, gas, electricity or fuel charges, housing costs of any member of the family or the payment of council tax.

(a) S.I. 1983/686

(b) S.I. 1983/1399.

(c) S.I. 1988/536; the relevant amending instrument is S.I. 1990/3.

(d) Paragraph 20 was amended by S.I. 1996/481.

(e) 2004 c. 32.

<sup>1</sup>Words inserted in paras. 15 & 18 by reg. 4(7)(b) of S.I. 2003/2779 as from 5.11.03.

<sup>2</sup>Words inserted in para. 15 by reg. 6(5) of S.I. 1996/1345 as from 7.10.96.

<sup>3</sup>Words in para. 15 inserted by para. 13(2)(b) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>4</sup>Words in para. 15 inserted by reg. 7(2)(ii) of S.I. 2013/591 as from 8.4.13.

<sup>5</sup>Para. 18A inserted by reg. 4(3)(a) of S.I. 2005/785 as from 16.3.05.

<sup>6</sup>Amount £20 substituted in para. 19(1) for £10 by reg. 3(2) of S.I. 1996/481 as from 8.4.96 or, where transl. prov. in reg. 4 *ibid.* applies, following next review.

(3) Sub-paragraphs (1) and (2) shall not apply to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children.

(4) For the purposes of sub-paragraph (1) where a number of charitable or voluntary payments fall to be taken into account they shall be treated as though they were one such payment.

**20.**—(1) Where, but for this paragraph, more than ►£20.00◄ would be disregarded under paragraphs ►18 to 19(1)◄ in respect of the same week, only ►£20.00◄ in aggregate shall be disregarded and where an amount falls to be deducted from the income of a student under paragraph 16(3)(b) or (c) of Schedule 1, that amount shall count as part of the ►£20.00◄ disregard allowed under this paragraph.

(a) Amount £20 substituted in para. 20(1) for £10 by reg. 3(3) of S.I. 1996/481 as from 8.4.96 or, where transl. prov. in reg. 4 *ibid.* applies following next review.

(2) Where any payment which is due to be paid in one week is paid in another week, sub-paragraph (1) and paragraphs ►18 to 19(1)◄ shall have effect as if that payment were received in the week in which it was due.

(b) Words substituted in para. 20 by reg. 4(3)(b) of S.I. 2005/785 as from 16.3.05.

**21.** In the case of a person participating in arrangements for training made under section 2 of the Employment and Training Act 1973(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) (functions in relation to training for employment etc.) or attending a course at an employment rehabilitation centre established under section 12 of the 1973 Act—

See note (a) above.  
See note (b) above.

- (a) any travelling expenses reimbursed to the person;
- (b) any living away from home allowance under section 2(2)(d) of the 1973 Act or section 2(4)(c) of the 1990 act;
- (c) any training premium,

but this paragraph, except in so far as it relates to a payment mentioned in sub-paragraph (a), (b), or (c), does not apply to any part of any allowance under section 22(d) of the 1973 Act or section 2(4)(c) of the 1990 Act.

**22.** Where a parent occupies a dwelling as his home and that dwelling is also occupied by a person, other than a non-dependant or a person who is provided with board and lodging accommodation, and that person is contractually liable to make payments in respect of his occupation of the dwelling to the parent, the amount or, as the case may be, the amounts specified in ►paragraph 19 of Schedule 9 to the Income Support (General) Regulations 1987(c) which would have applied if he had been in receipt of income support.◄

Words substituted in para. 22 by reg. 6(7)(a) of S.I. 2003/328 as from 6.4.03.

*The said paragraph 19 of Sch. 2 to S.I. 1987/1973, as amended, is reproduced at Annex 3 to this S.I.*

**23.** Where a parent, who is not a self-employed earner, is in receipt of rent or any other money in respect of the use and occupation of property other than his home, that rent or other payment to the extent of any sums which that parent is liable to pay by way of—

- (a) payments which are to be taken into account as eligible housing costs under sub-paragraphs (b), (c), (d) and (t) of paragraph 1 of schedule 3 (eligible housing costs for the purposes of determining exempt income and protected income) and paragraph 3 of that Schedule (exempt income; additional provisions relating to eligible housing costs);◄
- (b) council tax payable in respect of that property;
- (c) water and sewerage charges payable in respect of that property.

Para 23(a) substituted by reg. 28. of S.I. 1993/913 as from 5.4.93.

**24.** ►For each week in which a parent provides◄ board and lodging accommodation in his home otherwise than as a self-employed earner—

Words substituted in para. 24 by reg. 55(2) of S.I. 1995/1045 as from 18.4.95.  
Words inserted into para. 24(a) by reg. 55(3) of S.I. 1995/1045 as from 18.4.95.

- (a) £20.00 of any payment for that accommodation made by ►, on behalf or in respect of◄ the person to whom that accommodation is provided; and
- (b) where any such payment excess £20.00, 50 per centum of the excess.

(a) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

(b) 1990 c. 39.

(c) S.I. 1987/1967. Paragraph 19 of Schedule 9 was substituted by S.I. 1994/527 and amended by S.I. 1995/516 and 2002/668.



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Words inserted in para. 25 by reg. 4(3)(c) of S.I. 2005/785 as from 16.3.05.

Words substituted in para. 25 by reg. 6(6) of S.I. 1999/977 as from 6.4.99.

Words in para. 25(a) substituted by reg. 29 of S.I. 1993/913 as from 5.4.93.

Words inserted into para. 25 of Sch. 2 by reg. 57 of S.I. 1998/58 as from 19.1.98.

Para. 25A inserted by reg. 4(3)(d) of S.I. 2005/785 as from 16.3.05.

Words in para. 26 substituted by reg. 30 of S.I. 1993/913 as from 5.4.93.

Word substituted in para. 27 for "does not in any period exceed" by reg. 55(4) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

Words substituted in para. 27 by reg. 46 of S.I. 1995/3261 as from 22.1.96 or, if an assessment is then in force, as from when it is next reviewed (reg. 57(1) *ibid.*). subj. in either case to reg. 57(3) *ibid.* (change in amount of assessment not effective before 22.1.96).

Words substituted in para. 27 for "does not in any period exceed" by reg. 55(4) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

**25.** Any payment made to a person in respect of an adopted child who is a member of his family that is made in accordance with any regulations made under section 57A or pursuant to section 57A(6) of the Adoption Act 1976(a) (permitted allowances) ►or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002(b)◄ or, as the case may be, ►section 51A(c)◄ of the Adoption (Scotland) Act 1978(d) (schemes for the payment of allowances to adopters)—

- (a) where the child is not a child in respect of whom child support maintenance is being assessed, to the extent that it exceeds ►the aggregate of the amounts to be taken into account in the calculation of E under regulation 9(1)(g)◄, reduced, as the case may be, under regulation 9(4);
- (b) in any other case, to the extent that it does not exceed the amount of the income of a child which is treated as that of his parent by virtue of Part IV►of Schedule 1.◄

►**25A.** Any payment made to a person in accordance with regulations made pursuant to section 14F of the Children Act 1989(e) (special guardianship support services) in respect of a child who is a member of his family.◄

**26.** Where a local authority makes a payment in respect of the accommodation and maintenance of a child in pursuance of paragraph 15 of Schedule 1 to the Children Act 1989(f) (local authority contribution to child's maintenance) to the extent that it exceeds the amount referred to in ►regulation 9(1)(g)◄ (reduced, as the case may be, under regulation 9(4)).

**27.** Any payment received under a policy of insurance taken out to insure against the risk of being unable to maintain repayments on a loan taken out to acquire an interest in, or to meet the cost of repairs or improvements to, the parent's home and used to meet such repayments, to the extent that the payment received under that policy►exceeds◄►the total of the amount of the payments set out in paragraphs 1(b), 3(2) and (4) of Schedule 3 as modified, where applicable, by regulation 18.◄

*Where an assessment is already in force, then until it is next reviewed para. 27 has effect, under reg. 57(1) of S.I. 1995/3261, without reference to the amendments made to it by S.I. 1995/3261, as follows:-*

27. Any payment received under a policy of insurance taken out to insure against the risk of being unable to maintain repayments on a loan taken out to acquire an interest in, or to meet the cost of repairs or improvements to, the parent's home and used to meet such repayments, to the extent that the payment received under that policy ►exceeds◄ the total of—

- (a) any interest payable on that loan;
- (b) any capital repayable on that loan; and
- (c) any premiums payable on that policy.

**28.** In the calculation of the income of the parent with care, any maintenance payments made by the absent parent in respect of his qualifying child.

**29.** Any payment made by a local authority to a person who is caring for a child under section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance by a local authority for children whom the authority is looking after) or, as the case may be, section 21 of the Social Work (Scotland) Act 1968(g) or by a voluntary organisation under section 59(1)(a) of the Children Act authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985(h) (provision of accommodation and maintenance for children in care).

(a) 1976 c. 36. S. 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41). The Adoption Allowance Regulations 1991 (S.I. 1991/2030) and the Adoption Allowance (Amendment) Regulations 1991 (S.I. 1991/2130) have been made.

(b) 2002 c. 38.

(c) S. 51A was inserted into the Adoption (Scotland) Act 1978 (c. 28) by Schedule 2 of the Children (Scotland) Act 1995 (c. 36).

(d) 1978 c. 28.

(e) 1989 c. 41. Section 14F was inserted by section 115 of the Adoption and Children Act 2002 (c. 38).

(f) 1989 c. 41.

(g) 1968 c. 49.

(h) S.I. 1985/1799.

**30.** Any payment made by a health authority ►<sup>1</sup>clinical commissioning group◄ local authority or voluntary organisation ►<sup>1</sup>or the National Health Service Commissioning Board◄ in respect of a person who is not normally a member of the household but is temporarily in the care of a member of it.

<sup>1</sup>Words substituted and inserted in para. 30 of Sch. 2 by para. 20(3)(a) & (b) to Sch. 2 of S.I. 2013/235 as from 1.4.13.

**31.** Any payment made by a local authority under section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons looked after, or in, or formerly in, their care).

**32.** Any resettlement benefit which is paid to the parent by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987(a) (transitional provisions).

**33.—(1)** Any payment or repayment made—

- (a) as respects England and Wales, under regulation 3, 5, or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(b) (travelling expenses and health service supplies);
- (b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulation 1988(c) (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales which is analogous to a payment or repayment mentioned in sub-paragraph (1).

**34.** Any payment made (other than a training allowance), whether by the Secretary of State or any other person, under the Disabled Persons Employment Act 1944(d) or in accordance with arrangements made under section 2 of the Employment and training act 1973(e) to assist disabled persons to obtain or retain employment despite their disability.

**35.** Any contribution to the expenses of maintaining a household which is made by a non-dependant member of that household.

**36.** Any sum in respect of a course of study attended by a child payable by virtue of regulations and under section 81 of the Education Act 1944(f) (assistance by means of scholarship or otherwise), or by virtue of section 2(1) of the Education Act 1962(g) (awards for courses of further education) or section 49 of the Education (Scotland) Act 1980(h) (power to assist persons to take advantage of educational facilities).

►<sup>2</sup>**36A.** Any sum in respect of financial assistance given, or given under arrangements made, by the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) under section 14 of the Education Act 2002(i) (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education), to a child.◄

<sup>2</sup>Para. 36A inserted by reg. 5(3) of S.I. 2004/2415 as from 16.9.04.

**37.** Where a person receives income under an annuity purchased with a loan which satisfies the following conditions—

- (a) that loan was made as part of a scheme under which not less than 90 per centum of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants” who include the person to whom the loan was made;

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(a) S.I. 1987/1683.

(b) S.I. 1988/546.

(c) S.I. 1988/551.

(d) 1944 c. 10.

(e) 1973 c. 50.

(f) 1944 c. 31.

(g) 1962 c. 12.

(h) 1980 c. 44; section 49 was amended by the Self Governing Schools (Scotland) Act 1989 (c. 39), Schedule 10.

(i) 2002 c. 32.

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- (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
- (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (d) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and
- (e) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid,

the amount, calculated on a weekly basis equal to—

- (i) where, or insofar as, section 26 of the Finance Act 1982<sup>(a)</sup> (deduction of tax for certain loan interest) applies to the payments of the interest on the loan, the interest which is payable after the deduction of a sum equal to income tax on such payments at the basis rate for the year of assessment in which the payment of interest becomes due;
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

**38.** Any payment of the description specified in paragraph 39 of Schedule 9 to the Income Support Regulations<sup>(b)</sup> (disregard of payments made under certain trusts and disregard of certain other payments) and any income derived from the investment of such payments.

**39.** Any payment made to a juror or witness in respect of attendance at court other than compensation for loss of earnings or for loss of a benefit payable under the Contributions and Benefits Act<sup>1</sup> or the Jobseekers Act<sup>1</sup>.

<sup>1</sup>Words inserted in para. 39 by reg. 6(6) and (7)(c) of S.I. 1996/1345 as from 7.10.96.

**40.** Any special war widow's payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865<sup>(c)</sup>;
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions warrant 1977<sup>(d)</sup>;
- (c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917<sup>(e)</sup>;
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980<sup>(f)</sup>;
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980<sup>(g)</sup>,

and any analogous payment by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e).

**41.** Any payment to a person as holder of the Victoria Cross or the George Cross or any analogous payment.

**42.** Any payment made either by the Secretary of State for the Home Department or by the Security of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody.

(a) 1982 c. 39.

(b) Paragraph 39 was substituted by S.I. 1991/1175. [The said para. 39 is included in the extracts from the Income Support (General) Regulations 1987 (S.I. 1987/1967) reproduced earlier in this work.]

(c) 1865 c. 73. Copies of the Order are available from the Ministry of Defence, NPC2, Room 317, Archway Block South, Old Admiralty Buildings, Spring Gardens, London SW1A 2BE.

(d) Army Code No. 13045 published by HMSO.

(e) 1917 c. 51. Queen's Regulations for the Royal Air Force are available from HMSO.

(f) 1980 c. 9. Copies of the Regulations are available from the Ministry of Defence, NPC2, Room 317, Archway Block South, Old Admiralty Building, Spring Gardens, London SW1A 2BE.

(g) Army Code No. 60589 published by HMSO.

**43.** Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or Schedule E.

**44.** Maintenance payments (whether paid under the Act or otherwise) insofar as they are not treated as income under Part III or IV of Schedule 1.

- 45.** Where following a divorce, dissolution of a civil partnership or separation—
- (a) capital is divided between the parent and the person who was his partner before the divorce, dissolution of a civil partnership or separation; and
  - (b) that capital is intended to be used to acquire a new home for that parent or to acquire furnishing for a home of his,

income derived from the investment of that capital for one year following the date on which that capital became available to the parent.

**46.** Except in the case of a self-employed earner, payments in kind.

**47.** Any payment made by the Joseph Rowntree Memorial Trust from money provided to it by the Secretary of State for Health for the purpose of maintaining a family fund for the benefit of severely handicapped children.

- 48.** Any payment of expenses to a person who is—
- (a) engaged by a charitable or voluntary body; or
  - (b) a volunteer,

if he otherwise derives no remuneration or profit from the body or person paying those expenses.

**48A.** Any guardian's allowance under Part III of the Contributions and Benefits Act.

**48B.** Any payment in respect of duties mentioned in paragraph 1(1)(i) of Chapter I of Part I of Schedule 1 relating to a period of one year or more.

**48C.** Any payment to a person under section 1 of the Community Care (Direct Payments) Act 1996 (a) or section 12B of the Social Work (Scotland) Act 1968 (b) in respect of his securing community care services, as defined in section 46 of the National Health Services and Community Care Act 1990 (c).

**48D.** Any payment of child tax credit.

**48E.** Any payment made by a local authority, or by the National Assembly for Wales, to a person relating to a service which is provided to develop or sustain the capacity of that person to live independently in his accommodation.

**48F.** Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows, widowers and surviving civil partners) (d) or under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers and surviving civil partners) (e).

**49.** In this Schedule—

“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 under the Contributions and Benefits Act or the Jobseekers Act are charged;

“health authority” means a health authority established under the National Health Service Act 1977 (f) or the National Health Service (Scotland) Act 1978 (g);

“mobility supplement” has the same meaning as in regulation 2(1) of the Income

Words inserted in para. 44 Sch. 2 by reg. 57 of S.I. 1998/58 as from 19.1.98.

(a) Words inserted in para. 45 & substituted in para. 48F by para. 2(5) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

Para. 46 substituted by reg. 31 of S.I. 1993 as from 5.4.93.

Paras. 48A and 48B inserted by reg. 32 of S.I. 1993/913 as from 5.4.93.

Para. 48C inserted by reg. 14 of S.I. 1996/3196 as from 13.1.97.

Para. 48D inserted by reg. 6(7)(b) of S.I. 2003/328 as from 6.4.03.  
Para. 48E substituted & 48F inserted by reg. 4(7)(c)&(d) of S.I. 2003/2779 as from 5.11.03.  
See note (a) above.

Words inserted in para. 49 by reg. 6(6) and (7)(c) of S.I. 1996/1345 as from 7.10.96.

- (a) 1996 c. 30.
- (b) 1968 c. 49; section 12B was inserted by section 4 of the Community Care (Direct Payments) Act 1996.
- (c) 1990 c. 46.
- (d) S.I. 1983/883. Article 29(1A) was inserted by S.I. 1994/1906. Relevant amending instruments are S.I. 2002/792 and 2003/434.
- (e) S.I. 1983/686. Article 27(3) was added by S.I. 1994/2021. Relevant amending instrument is 2002/672.
- (f) 1977 c. 49.
- (g) 1978 c. 29.

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CASES) REGULATIONS 1992**

**Sch. 2**

Support Regulations;

“war disablement pension” and “war widow” have the same meanings as in section 150(2) of the Contributions and Benefits Act.

SCHEDULE 3

Regulation 14

ELIGIBLE HOUSING COSTS

**Eligible housing costs for the purposes of determining exempt income and protected income**

1. Subject to the following provisions of this Schedule, the following amounts payable in respect of the provision of a home shall be eligible to be taken into account as housing costs for the purposes of these Regulations—

- (a) amounts payable by way of rent;
- (b) amounts payable by way of mortgage interest;
- (c) amounts payable by way of interest under a hire purchase agreement to buy a home;
- (d) amounts payable by way of interest on loans for repairs and improvements to the home, including interest on a loan for any service charge imposed to meet the cost of such repairs and improvements;
- (e) amounts payable by way of ground rent or in Scotland, payments by way of feu duty;
- (f) amounts payable under a co-ownership scheme;

Words substituted in para. 1 of Sch. 3 by reg. 58(2)(a) of S.I. 1998/58 as from 19.1.98.

Words substituted in para. 1(a) of Sch. 3 by reg. 58(2)(b) of S.I. 1998/58 as from 19.1.98.

Head (b) of para. 1 substituted by reg. 58(2)(c) of S.I. 1998/58 as from 19.1.98.

Words substituted in heads (c) and (d) of para. 1 by reg. 58(2)(d) of S.I. 1998/58 as from 19.1.98.

Words in para. 1(d) inserted by reg. 33(a) of S.I. 1993/913 as from 5.4.93.

Words substituted in heads (e) and (f) of para. 1 by reg. 58(2)(e) of S.I. 1998/58 as from 19.1.98.



**Sch. 3**

(a) Words substituted in heads (g) to (j),(l)(n) and (p) of para. 1 by reg. 58 (2)(e) of S.I. 1998/58 as from 1998.

Words substituted in para. 1(k) of Sch. 3 by reg. 58(2)(b) of S.I. 1998/58 as from 19.1.98.

See note (a) above.

Words substituted in head (q) of para. 1 by reg. 58(2)(f) of S.I. 1998/58 as from 1998. Words substituted in head (r) of para. 1 by reg. 58(2)(g)(i) of S.I. 1998/58 as from 19.1.98.

Words substituted in head (r) of para. 1 by reg. 58(2)(g)(ii) of S.I. 1998/58 as from 19.1.98.

Para. 1(s) deleted by reg. 33(b) of S.I. 1993/913 as from 5.4.93.

Head (t) of para. 1 substituted by reg. 58(2)(h) of S.I. 1998/58 as from 19.1.98.

Words in para. 2 substituted by reg. 56(3) of S.I. 1995/1045 as from 18.4.95.

- (g) ►amounts payable◄ in respect of, or in consequence of, the use and occupation of the home;
- (h) where the home is a tent, ►amounts payable◄ payments in respect of the tent and the site on which it stands;
- (i) ►amounts payable◄ in respect of a licence or permission to occupy the home (whether or not board is provided);
- (j) ►amounts payable◄ by way of mesne profits or, in Scotland, violent profits;
- (k) ►amounts payable by way of◄, service charges, the payment of which is a condition on which the right to occupy the home depends;
- (l) ►amounts payable◄ under or relating to a tenancy or licence of a Crown tenant;
- (m) mooring charges payable for a houseboat;
- (n) where the home is a caravan or a mobile home, ►amounts payable◄ in respect of the site on which it stands;
- (o) any contribution payable by a parent resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 4 of the Charities Act 1960(a) (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association's almshouses and essential services in them;
- (p) ►amounts payable◄ under a rental purchase agreement, that is to say an agreement for the purchase of a home under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid;
- (q) where, in Scotland, the home is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955(b), the ►amounts payable◄ in respect of the croft land;
- (r) where the home is provided by an employer (whether under a condition or term in a contract of service or otherwise), ►amounts payable◄ to that employer in respect of the home, including ►any amount deductible by the employer◄
- (s) ►◄
- (t) ►payments in respect of a loan taken out to pay off another loan but only to the extent that it was incurred in respect of amounts eligible to be taken into account as housing costs by virtue of other provisions of this Schedule.◄

*Reproduced below is head (t) as in force 13.1.97 to 18.1.98 as amended by reg. 15(2) of S.I. 1996/3196.*

(t) payments in respect of a loan taken out to pay off only to the extent that it was incurred in respect of payments eligible to be taken into account as housing costs by virtue of other provisions of this Schedule.

**Loans for repairs and improvements to the home**

**2.** ►Subject to paragraph 2A (loans for repairs and improvements in transitional cases), for the purposes of◄ paragraph 1(d) "repairs and improvements" means major repairs necessary to maintain the fabric of the home and any of the following measures undertaken with a view to improving its fitness for occupation—

- (a) installation of a fixed bath, shower, wash basin or lavatory, and necessary associated plumbing;
- (b) damp proofing measures;
- (c) provision or improvement of ventilation and natural lighting;
- (d) provision of electric lighting and sockets;
- (e) provision or improvement of drainage facilities;
- (f) improvement of the structural condition of the home;
- (g) improvements to the facilities for the storing, preparation and cooking of food;

(a) 1960 c. 58; subsecs (8) and (10) of section 4 were amended by section 1(4) and (5) and Schedule 2, Parts I and II of the Education Act 1973 (c. 16).

(b) 1955 c. 21; section 3(1) was amended by section 14 of the Crofting Reform (Scotland) Act 1976 (c. 21).

- (h) provision of heating, including central heating;
- (i) provision of storage facilities for fuel and refuse;
- (j) improvements to the insulation of the home;
- (k) other improvements which the ►Secretary of State◄ considers reasonable in the circumstances.

Words substituted in para. 2(k) by S.I. 1999/1510 as from 1.6.99.

**►Loans for repairs and improvements in transitional cases**

**2A.** In the case of a loan entered into before the first date upon which a maintenance application or enquiry form is given or sent or treated as given or sent to the relevant person, for the purposes of paragraph 1(d) “repairs and improvements” means repairs and improvements of any description whatsoever.◄

Para. 2A inserted by reg. 56(4) of S.I. 1995/1045 as from 18.4.95. (see also transl. prov. in reg. 64(1) *ibid.*).

**Exempt income: additional provisions relating to eligible housing costs**

**3.—(1)** The additional provisions made by this paragraph shall have effect only for the purpose of calculating or estimating exempt income.

(2) Subject to sub-paragraph(6), where the home of an absent parent or, as the case may be, a parent with care, is subject to a mortgage or charge and that parent ► is liable to make periodical payments◄ to reduce the capital secured by that mortgage or charge of an amount provided for in accordance with the terms thereof, ►those amounts payable ◄ shall be eligible to be taken into account as the housing costs of that parent.

(a) Words substituted in para. 3(2) and (2A) by reg. 58(3)(a) of S.I. 1998/58 as from 19.1.98.

►(2A) Where an absent parent or as the case may be a parent with care has entered into a loan for repairs or improvements of a kind referred to in paragraph 1(d) and that parent ►is liable to make periodical payments ◄of an amount provided for in accordance with the terms of that loan to reduce the amount of that loan, ►those amounts payable shall be eligible to be taken into account as housing costs of that parent.◄◄

Para.3(2A) inserted by reg. 47(2) of S.I. 1995/3261 as from 22.1.96. or, if an assessment is then in force, as from when it is next reviewed (reg. 57(1) *ibidi.*) subj. in either case to reg. 57(3) *ibid.* (change in amount of assessment not effective before 22.1.96.). See note (a) above.

(3) Subject to sub-paragraph (6), where the home of an absent parent or, as the case may be, a parent with care, is held under an agreement and ►certain amounts payable◄ under that agreement are included as housing costs by virtue of paragraph 1 of this Schedule, ► any other amounts payable◄ in accordance with that agreement by the parent in order either—

Words substituted in para. 3(3) by reg. 58(3)(b)(i) of S.I. 1998/58 as from 19.1.98.

- (a) to reduce his liability under that agreement; or
- (b) to acquire the home to which it relates,

shall also be eligible to be taken into account as housing costs.

(4) Where a policy of insurance has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question, the amount of the ►premiums payable◄ under that policy shall be eligible to be taken into account as a housing cost ►including for the avoidance of doubt such a policy of insurance whose purpose is to secure the payment of monies due under the mortgage or charge in the event of the unemployment, sickness or disability of the insured.◄

Words substituted in para. 3(3) by reg. 58(3)(b)(ii) of S.I. 1998/58 as from 19.1.98.

►(4A)Where—

- (a) an absent parent or parent with care has obtained a loan which constitutes an eligible housing cost falling within sub-paragraph (d) or (t) of paragraph 1; and
- (b) a policy of insurance has been obtained and retained, the purpose of which is solely to secure the payment of monies due under that loan in the event of the unemployment, sickness or disability of the insured person,

Words substituted in para. 3(4) and (5) by reg. 58(3)(c) of S.I. 1998/58 as from 19.1.98.

the amount of the premiums payable under that policy shall be eligible to be taken into account as a housing cost.◄

Words added to para. 3(4) by reg. 56(5)(a) of S.I. 1998/58 as from 19.1.98.

Sub-para. 3(4A) inserted by reg. 15(3)(a) by S.I. 1996/3196 as from 13.1.97.

►(5) Where a policy of insurance has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question and also for the purpose of accruing profits on the maturity of the policy, there shall be eligible to be taken into account as a housing cost—

Para. 3(5) substituted in Sch. 3 by reg. 4(8) of S.I. 1994/227 as from 7.2.94.

## Sch. 3

Words substituted in para. 3(5) by reg. 58(3)(c) of S.I. 1998/58 as from 19.1.98.

- (a) where the sum secured by the mortgage or charge does not exceed £60,000 the whole of the ►premiums payable◄ under that policy; and
- (b) where the sum secured by the mortgage or charge exceeds £60,000, the part of the ►premiums payable◄ under that policy which are necessarily incurred for the purpose of discharging the mortgage or charge or, where that part cannot be ascertained, 0.0277 per centum of the amount secured by the mortgage or charge.◄

Sub-paras (5A) and (5B) inserted into para. 3 by reg. 56(5)(b) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

►(5A) Where a plan within the meaning of regulation 4 of the Personal Equity Plans Regulations 1989(a) has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question and also for the purpose of accruing profits upon the realisation of the plan, there shall be eligible to be taken into account as a housing cost—

- (a) where the sum secured by the mortgage or charge does not exceed £60,000, the whole of the premiums payable in respect of the plan; and
- (b) where the sum secured by the mortgage or charge exceeds £60,000, that part of the premiums payable in respect of the plan which is necessarily incurred for the purpose of discharging the mortgage or charge or, where that part cannot be ascertained, 0.0277 per centum of the amount secured by the mortgage or charge.

Words inserted in sub-para. 5B by reg. 15(3)(b) of S.I. 1996/3196 as from 13.1.97.

(5B) Where a personal pension plan ► derived from a personal pension scheme ◄ has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question and also for the purpose of securing the payment of pension to him, there shall be eligible to be taken into account as a housing cost 25 per centum of the contributions payable in respect of that personal pension plan.◄

(6) For the purposes of sub-paragraphs (2) and (3), housing costs shall not include—

Sub-para. (a) & (b) of para. 3(6) substituted by reg. 4(5) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

- (a) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1(a)(i) of Schedule 1 to the Housing Benefit Regulations or, as the case may be, paragraph 1(a)(i) of Schedule 1 to the Housing Benefit (State Pension Credit) Regulations (ineligible service charges), the amounts specified as ineligible in paragraph 2 of the appropriate Schedule 1;
- (b) where the costs are inclusive of any of the items mentioned in paragraph 6(2) of Schedule 1 to the Housing Benefit Regulations or, as the case may be, paragraph 6(2) of Schedule 1 to the Housing Benefit (State Pension Credit) Regulations (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the parent provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amount;◄
- (c) premiums payable in respect of any policy of insurance against loss caused by the destruction of or damage to any building or land.

#### Conditions relating to eligible housing costs

4.—(1) Subject to the following provisions of this paragraph the housing costs referred to in this Schedule shall be included as housing costs only where—

Head 4(1)(a) substituted by reg. 15(4)(a) of S.I. 1996/3196 as from 13.1.97.

- (a) ►they are necessarily incurred for the purpose of purchasing, renting or otherwise securing possession of the home for the parent and his family, or for the purpose of carrying out repairs and improvements to that home,◄
- (b) the parent or, if he is one of a family, he or a member of his family, is responsible for those costs; and
- (c) the liability to meet those costs is to a person other than a member of the same household.

Sub-para. 4(1A) inserted by reg. 15(4)(b) of S.I. 1996/3196 as from 13.1.97.

►(1A) For the purposes of sub-paragraph (1)(a) “repairs and improvements” shall have the meaning given in paragraph 2 of this Schedule.◄

(2) For the purposes of sub-paragraph (1)(b) a parent shall be treated as responsible for housing costs where—

- (a) because the person liable to meet those costs is not doing so, he has to meet those costs in order to continue to live in the home and either he was formerly

(a) S.I. 1989/469; relevant amendments were made by S.I. 1990/678 and 1991/733.

the partner of the person liable, or he is some other person whom it is reasonable to treat as liable to meet those costs; or

- (b) he pays a share of those costs in a case where—
  - (i) he is living in a household with other persons;
  - (ii) those other persons include persons who are not close relatives of his or his partner;
  - (iii) a person who is not such a close relative is responsible for those costs under the preceding provisions of this paragraph or has an equivalent responsibility for housing expenditure; and
  - (iv) it is reasonable in the circumstances to treat him as sharing that responsibility.

► (3) Subject to sub-paragraph (4), payments on a loan shall constitute an eligible housing cost only if that loan has been obtained for the purposes specified in sub-paragraph (1)(a).

(4) Where a loan has been obtained only partly for the purposes specified in sub-paragraph (1)(a), the eligible housing cost shall be limited to that part of the payment attributable to those purposes. ◀

Sub- paras. 4(3) and (4) inserted in para. 4 by reg. 15(4)(c) of S.I. 1996/3196 as from 13.1.97.

### Accommodation also used for other purposes

5. Where amounts are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is attributable to residential accommodation shall be eligible to be taken into account as housing costs.

### Ineligible service and fuel charges

6. Housing costs shall not include—

- (a) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1(a)(i) of Schedule 1 to the Housing Benefit (General) Regulations 1987(a) (ineligible service charges), the amounts specified as ineligible in paragraph 1A of that Schedule;◀

(aa) ►◀;

*Where an assessment is already in force, then until it is next reviewed sub-para. (a) and (aa) of para. 6 have effect, under reg. 57(1) of S.I. 1995/3261, without reference to the amendments made to them by S.I. 1995/3261, as follows:-*

- (a) where the costs are inclusive of ineligible service charges with the meaning of ►paragraph 1 (a)(i)◀ of Schedule 1 to the Housing benefit (General) Regulations 1987 (ineligible service charges), the amounts attributable to those ineligible service charges or, where that amount is not separated from or separately identified within the housing costs to be met under this paragraph, such part of the payments made in respect of those housing costs which are fairly attributable to the provision of those ineligible services having regard to the costs of comparable services;

- (aa) where the costs are inclusive of charges, other than those which are not to be included by virtue of sub-paragraph (a), that part of those charges which exceeds the greater of the following amounts—

- (i) the total of the charges other than those which are ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations (housing costs);
- (ii) 25 per centum of the total amount of eligible housing costs;◀

- (b) where the costs are inclusive of any of the items mentioned in paragraph 5(2) of schedule 1 to the Housing Benefit (General) Regulations 1987 (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the parent

Para. 6(a) substituted, and para. 6(aa) deleted, by reg. 47(3)(i) and (ii) respectively of S.I. 1995/3261 as from 22.1.96 or, if an assessment is then in force, as from when it is next reviewed (reg. 57(1) *ibid.*) sub. in either case to reg. 57(3) *ibid.* (change in amount of assessment not effective before 22.1.96).

Words substituted in para. 6(a) by reg. 56(6)(a) of S.I. 1995/1045 as from 18.4.95.

Para. 6(aa) inserted by reg. 56(6)(b) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

(a) S.I. 1987/1971.

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Word “and” deleted from the end of para. 6(b), word “and” added at end of para. 6(c), and para. 6(d) added, by reg. 47(3)(iii) and (iv) of S.I. 1995/3261 as from 22.1.96 or, if an assessment is then in force, as from when it is next reviewed (reg. 57(1) *ibid.*), subj. in either case to reg. 57(3) *ibid.* (change in amount of assessment not effective before 22.1.96).

- provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amount; ▶◀
- (c) charges for water, sewerage or allied environmental services and where the amount of such charges is not separately identified, such part of the charges in question as is attributable to those services; ▶and
- (d) where the costs are inclusive of charges, other than those which are not to be included by virtue of sub-paragraphs (a) to (c), that part of those charges which exceeds the greater of the following amounts—
- (i) the total of the charges other than those which are ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations (housing costs);
- (ii) 25 per centum of the total amount of eligible housing costs,
- and for the purposes of this sub-paragraph, where the amount of those charges is not separately identifiable, that amount shall be such amount as is reasonably attributable to those charges.◀

**Interpretation**

7. In this schedule except where the context otherwise requires—

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parents, 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◀

“co-ownership scheme” means a scheme under which the dwelling is let by a housing association and the tenant, or his personal representative, will, under the terms of the tenancy agreement or of the agreement under which he became a member of the association, be entitled, on his ceasing to be a member and subject to any conditions stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the dwelling;

“housing association” has the meaning assigned to it by section 1(1) of the Housing Association Act 1985(a)

Words substituted in defn. of “close relative” by para. 2(6) of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

Schedule 3A inserted by reg. 57 of and Sch. 1 to S.I. 1995/1045 as from 18.4.95 (sub. to regs. 63(6) and 64(3) *ibid.*).

**▶SCHEDULE 3A**

Regulation 9(1)(bb)

**AMOUNT TO BE ALLOWED IN RESPECT OF TRANSFERS OF PROPERTY****Interpretation**

- 1.—(1) In this Schedule—

“property” means—

- (a) a legal estate or an equitable interest in land; or
- (b) a sum of money which is derived from or represents capital, whether in cash or in the form of a deposit with—
- (i) the Bank of England;
- (ii) an authorised institution or an exempted person with the meaning of the Banking act 1987(b);
- (iii) a building society incorporated or deemed to be incorporated under the Building Societies Act 1986(c);
- (c) any business asset as defined in sub-paragraph (2) (whether in the form of money or an interest in land or otherwise);

(a) 1985 c. 69.

(b) 1987 c. 22.

(c) 1986 c. 53.



(d) any policy of insurance which has been obtained and retained for the purposes of providing a capital sum to discharge a mortgage or charge secured upon an estate or interest in land which is also the subject of the transfer (in this Schedule referred to as an endowment policy);

“qualifying transfer” means a transfer of property—

(a) which was made in pursuance of a court order made, or a written maintenance agreement executed, before 5th April 1993;

(b) which was made between the absent parent and either the parent with care or a relevant child ►or both whether jointly or otherwise including, in Scotland, in common property◄;

(c) which was made at a time when the absent parent and the parent with care were living separate and apart;

►(d) the effect of which is that (subject to any mortgage or charge) the parent with care or relevant child is solely beneficially entitled to the property of which the property transferred forms the whole or part, or the business asset, or the parent with care is beneficially entitled to that property or that asset together with the relevant child or absent parent or both, jointly or otherwise or, in Scotland, in common property, or the relevant child is so entitled together with the absent parent;◄

►(e) which was not made for the purpose only of compensating the parent with care either for the loss of a right to apply for, or receive, periodical payments or a capital sum in respect of herself, or for any reduction in the amount of such payments or sum;◄

“compensating transfer” means a transfer of property which would be a qualifying transfer (disregarding the requirement of paragraph (e) of the definition of “qualifying transfer”) if it were made by the absent parent, but which is made by the parent with care in favour of the absent parent ►or◄ relevant child ►or both whether jointly or otherwise including, in Scotland, in common property ◄;

“relevant date” means the date of the making of the court order or the execution of the written maintenance agreement in pursuance of which the qualifying transfer was made.

Words substituted in para. 1(1) by reg. 6(7) of S.I. 1999/977 as from 6.4.99.

(2) For the purposes of sub-paragraph (1) “business asset” means an asset, whether in the form of money or an interest in land or otherwise which, prior to the date of transfer was used in the course of a trade or business carried on—

(a) by the absent parent as a sole trader;

(b) by the absent parent in partnership, whether with the parent with care or not;

(c) by a close company within the meaning of sections 414 and 415 of the Income and Corporation Taxes Act 1988(a) in which the absent parent was a participator at the date of the transfer.

(3) Where the condition specified in regulation 10(a) is satisfied this Schedule shall apply as if references—

(a) to the parent with care were references to the absent parent; and

(b) to the absent parent were references to the parent with care.

### Evidence to be produced in connection with the allowances for transfers of property

2.—(1) Where the absent parent produces to the Secretary of State—

(a) contemporaneous evidence in writing of the making of a court order or of the execution of a written maintenance agreement, which requires the relevant person to make qualifying transfer of property;

(b) evidence in writing and whether contemporaneous or not as to—

(i) the fact of the transfer;

(ii) the value of the property transferred at the relevant date;

(iii) the amount of any mortgage or charge outstanding at the relevant date,

an amount in respect of the relevant value of the transfer determined in accordance with the following provisions of this Schedule shall be allowed in calculating or estimating the exempt income of the absent parent.

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(a) 1988 c. 1.



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Words substituted in para. 2(2) by art. 21(a) of S.I. 1999/1510 as from 1.6.99.

Para. 3 substituted by art. 21(b) of S.I. 1999/1510 as from 1.6.99.

Words substituted in para. 4 by reg. 6(7)(c) of S.I. 1999/977 as from 6.4.99.

(2) Where the evidence specified in sub-paragraph (1) is not produced within a reasonable time after the Secretary of State has been notified of the wish of the absent parent that ►the Secretary of State◄ consider the question, ►he◄ shall determine the question on the basis that the relevant value of the transfer is nil.

**Consideration of evidence produced by other parent**

►3.—(1) Where an absent parent has notified the Secretary of State that he wishes him to consider whether an amount should be allowed in respect of the relevant value of a qualifying transfer, the Secretary of State shall—

- (a) give notice to the other parent of that application; and
- (b) have regard in determining the application to any representations made by the other parent which are received within the period specified in sub-paragraph (2).

(2) The period specified in this sub-paragraph is one month from the date on which the notice referred to in sub-paragraph (1)(a) above was sent or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case. ◄

**Computation of qualifying value—business assets and land**

4.—(1) Subject to paragraph 6, where the property ►transferred◄ by the absent parent is, or includes, an estate or interest in land, or a business asset, the qualifying value of that estate, interest or asset shall be determined in accordance with the formula—

$$\text{►QV} = \frac{(\text{VP} - \text{MCP})}{2} - (\text{VAP} - \text{MCR}) - \text{VCR}$$

where—

QV is the qualifying value,

VP is the value at the relevant date of the business asset or the property of which the estate or interest forms the whole or part,

and for the purposes of this calculation it is assumed that the estate, interest or asset held on the relevant date by the absent parent or by the absent parent and the parent with care is held by them jointly in equal shares or, in Scotland, in common property;

MCP is the amount of any mortgage or charge outstanding immediately prior to the relevant date on the business asset or on the property of which the estate or interest forms the whole or part;

VAP is the value calculated at the relevant date of the business asset or of the property of which the estate or interest forms the whole or part beneficially owned by the absent parent immediately following the transfer (if any);

MCR is, where immediately after the transfer the absent parent is responsible for discharging a mortgage or charge on the business asset or on the property of which the estate or interest forms the whole or part, the amount calculated at the relevant date which is a proportion of any such mortgage or charge outstanding immediately following the transfer, being the same percentage as VAP bears to that property as a whole; and

VCR is the value of any charge in favour of the absent parent on the business asset or on the property of which the estate or interest forms the whole or part, being the amount specified in the court order or written maintenance agreement in relation to the charge, or the amount of a proportion of the value of the business asset or the property on the relevant date specified in the court order or written maintenance agreement. ◄

(2) For the purposes of sub-paragraph (1) the value of an estate or interest in land is to be determined upon the basis that the parent with care and any relevant child, if in occupation of the land, would quit on completion of the sale.

**Computation of qualifying value—cash, deposits and endowment policies**

5. Subject to paragraph 6, where the property which is the subject of the qualifying transfer is, or includes—

- (i) a sum of money whether in cash or in the form of a deposit with the Bank of England, an authorised institution or exempted person within the meaning of the Banking Act 1987, or a building society incorporated or deemed to be incorporated under the Building Societies Act 1986, derived from or representing capital; or
- (ii) an endowment policy,

the amount of the qualifying value shall be determined by applying the formula—

$$QV = \frac{VT}{2}$$

where—

- (a) QV is the qualifying value; and
- (b) VT is the amount of cash, the balance of the account or the surrender value of the endowment policy on the relevant date and for the purposes of this calculation it is assumed that the cash, balance or policy held on the relevant date by the absent parent and the parent with care is held by them jointly in equal shares or, in Scotland, in common property.

Words inserted in para. 5 by reg. 6(7)(d) of S.I. 1999/977 as from 6.4.99.

### Transfers wholly in lieu of periodical payments for relevant child

6. Where the evidence produced in relation to a transfer to, or in respect of, a relevant child, shows expressly that the whole of that transfer was made exclusively in lieu of periodical payments in respect of that child—

- (a) in a case to which paragraph 4 applies, the qualifying value shall be treated as being twice the qualifying value calculated in accordance with that paragraph. and
- (b) in a case to which paragraph 5 applies, the qualifying value shall be treated as being twice the qualifying value calculated in accordance with that paragraph.

Words substituted in para. 6 by reg. 6(e) of S.I. 1999/977 as from 6.4.99

### Multiple transfers to related persons

7.—(1) Where there has been more than one qualifying transfer from the absent parent—

- (a) to the same parent with care;
- (b) to or for the benefit of the same relevant child;
- (c) to or for the benefit of two or more relevant children with respect to all of whom the same persons are respectively the parent with care and the absent parent;

or any combination thereof, the relevant value by reference to which the allowance is to be calculated in accordance with paragraph 10 shall be the aggregate of the qualifying transfers calculated individually in accordance with the preceding paragraphs of this Schedule, less the value of any compensating transfer or where there has been more than one, the aggregate of the values of the compensating transfers so calculated.

(2) Except as provided by sub-paragraph (1), the values of transfers shall not be aggregated for the purposes of this Schedule.

### Computation of the value of compensating transfers

8. Subject to paragraph 8A, the value of a compensating transfer shall be determined in accordance with paragraph 4 to 7 above, but as if any reference in those paragraphs—

- (a) to the absent parent were a reference to the parent with care;
- (b) to the parent with care were a reference to the absent parent; and
- (c) to a qualifying transfer were a reference to a compensating transfer.

8A.—(1) This paragraph applies where—

- (a) the property which is the subject of a compensating transfer is or includes cash

Words substituted in para. 8 by reg. 48(1) of S.I. 1995/3261 as from 18.12.95.

Para. 8a inserted by reg. 48(2) of S.I. 1995/3261 as from 18.12.95, subj. to reg. 56 *ibid.* (effective date of consequent fresh assessment, and modifn. of S.I. 1992/1813).

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- or deposits as defined in paragraph 5(i);
- (b) that property was acquired by the parent with care after the relevant date;
  - (c) the absent parent has no legal interest in that property;
  - (d) if that property is or includes cash obtained by a mortgage or charge, that mortgage or charge was executed by the parent with care after the relevant date and was of property to the whole of which she is legally entitled; and
  - (e) the effect of the compensating transfer is that the parent with care or a relevant child is beneficially entitled (subject to any mortgage or charge) to the whole of the absent parent's legal estate in the land which is the subject of the qualifying transfer.

(2) Where sub-paragraph (1) applies, the qualifying value of the compensating transfer shall be the amount of the cash or deposits transferred pursuant to the court order or written maintenance agreement referred to in head (a) of the definition of "qualifying transfer" in paragraph 1(1).◀

**Computation of relevant value of a qualifying transfer**

9. The relevant value of a qualifying transfer shall be calculated by deducting from the qualifying value of the qualifying transfer the qualifying value of any compensating transfer between the same persons as are parties to the qualifying transfer.

**Amount to be allowed in respect of a qualifying transfer**

10. For the purposes of regulation 9(1)(bb), the amount to be allowed in the computation of E, or in case where regulation 10(a) applies, F, shall be—

- (a) where the relevant value calculated in accordance with paragraph 9 is less than £5,000, nil;
- (b) where the relevant value calculated in accordance with paragraph 9 is at least £5,000, but less than £10,000, £20.00 per week;
- (c) where the relevant value calculated in accordance with paragraph 9 is at least £10,000, but less than £25,000, £40.00 per week;
- (d) where the relevant value calculated in accordance with paragraph 9 is not less than £25,000, £60.00 per week.

Words in subpara. (a) and subpara (c) inserted by reg. 6(f) of S.I. 1999/977 as from 6.4.99.

11. this schedule in its application to Scotland shall have effect as if—

- (a) in paragraph 1 for the words "legal estate or equitable interest in land" ▶ and in head (e) of paragraph 8A(1), for the words "legal estate in the land" ◀ there were substituted the words "an interest in land within the meaning of section 2(6) of the Conveyancing and Feudal Reform (Scotland) Act 1970(a)";
- (b) in paragraph 4 the word "estate," and the words "estate or" in each place where they respectively occur were omitted.◀
- ▶(c) in paragraphs 1, 2, 4 and 8A for the word "mortgage" there were substituted the words "heritable security"◀

Sch. 3B inserted by reg. 57 of and Sch. 2 to S.I. 1995/1045 as from 18.4.95 (subj. to regs. 63(6) and 64(3) *ibid.*).

**▶SCHEDULE 3B**

Regulations 9(1)(i) and 11(1)(kk)

**AMOUNT TO BE ALLOWED IN RESPECT OF TRAVELLING COSTS****Interpretation**

1. In this Schedule—

"day" means, in relation to a person who attends at a work place for one period of work which commences before midnight of one day and concludes the following day, the first of those days;

"journey" means a single journey, and "pair of journeys" means two journeys in opposing directions, between the same two places;

"relevant employment" means an employed earner's employment in which the relevant person is employed and in the course of which he is required to attend at a work place, and "relevant employer" means the employer of the relevant person in that employment;

"relevant person" means—

(a) 1970 c. 35.

- (a) in the application of the provisions of this Schedule to regulation 9, the absent parent or the parent with care; and
- (b) in the application of the provisions of this Schedule to regulation 11, the absent parent;

►“straight-line distance” means the straight-line distance measure in kilometres and calculated to 2 decimal places, and, where that distance is not a whole number of kilometres, rounded to the nearest whole number of kilometres, a distance which exceeds a whole number of kilometres by 0.50 of a kilometre being rounded up; ◀

Defn. of “straight-line distance” substituted by reg. 5(4)(a) of S.I. 2004/2415 as from 16.9.04.

“travelling costs” means the cost of—

- (a) purchasing either fuel or a ticket for the purposes of travel;
- (b) contributing to the costs borne by a person other than a relevant employer in providing transport; or
- (c) paying another to provide transport,

which are incurred by the relevant person in travelling between the relevant person’s home and his work place, and where he has more than one relevant employment between any of his work places in those employment’s;

“work place” means the relevant person’s normal place of employment in a relevant employment, and “deemed work place” means a place which has been selected by the ►Secretary of State◀ pursuant either to paragraph 8(2) or 15(2) for the purpose of calculating the amount to be allowed in respect of the relevant person’s travelling costs.

Words substituted in defn. of “work place” and in para. 4(b) by art. 22 of S.I. 1999/1510 as from 1.6.99.

#### Computation of amount allowable in respect of travelling costs

2. For the purpose of regulation 9 and regulation 11 an amount in respect of the travelling costs of the relevant person shall be determined in accordance with the following provisions of this Schedule if the relevant person—

- (a) has travelling costs; and
- (b) provides the information required to enable the amount of the allowance to be determined.

#### Computation in cases where there is one relevant employment and one work place in that employment

3. Subject to paragraphs 21 to 23, where the relevant person has one relevant employment and is normally required to attend at only one work place in the course of that employment the amount to be allowed in respect of travelling costs shall be determined in accordance with paragraphs 4 to 7 below.

4. there shall be calculated or, if that is impracticable, estimated—

- (a) the straight-line distance between the relevant person’s home and his work place;
- (b) the number of journeys between the relevant person’s home and his work place which he makes during a period comprising a whole number of weeks which appears to the ►Secretary of State◀ to be representative of his normal pattern of work, there being disregarded any pair of journeys between his work place and his home and where the first journey is from his work place to his home and where the time which elapses between the start of the first journey and the conclusion of the second is not more than two hours.

5. the results of the calculation or estimate produced by sub-paragraph (a) of paragraph 4 shall be multiplied by the result of the calculation or estimate required by sub-paragraph (b) of that paragraph.

6. The product of the multiplication required by paragraph 5 shall be divided by the number of weeks in the period.

7. Where the result of the division required by paragraph 6 is less than or equal ►240◀, the amount to be allowed in respect of the relevant person’s travelling costs shall be nil, and where it is greater than ►240◀ the weekly allowance to be made in

In para. 7, figure 150 & 10 pence substituted for 240 and 6 pence by reg. 5(4)(b) of S.I. 2004/2415 as from 16.9.04.

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respect of the relevant person's travelling costs shall be ►6 pence◄ multiplied by the number by which that number exceeds ►240◄.

**Computation in cases where there is more than one work place but only one relevant employment**

(a) In para. 8(1) & (2), 13 substituted by 14 by reg. 5(4)(c) of S.I. 2004/2415 as from 16.9.04.

Words substituted in paras. 8(2) & 10 by art. 22 of S.I. 1999/1510 as from 1.6.99.

**8.**—(1) Subject to sub-paragraph (2) and paragraphs 21 to 23 below, where the relevant person has one relevant employment but attends at more than one work place the amount to be allowed in respect of travelling costs for the purposes of regulations 9 and 11 shall be determined in accordance with paragraphs 9 to ►14◄.

(2) Where it appears that the relevant person works at more than one work place but his pattern of work is not sufficiently regular to enable the calculation of the amount to be allowed in respect of his travelling costs to be made readily, the ►Secretary of State◄ may—

- (a) select a place which is either one of the relevant person's work places or some other place which is connected with the relevant employment; and
- (b) apply the provisions of paragraphs 4 to 7 above to actuate the amount of the allowance to be made in respect of travelling costs upon the basis that the relevant person makes one journey from his home to the deemed work place and one journey from the deemed work place to his home on each day on which he attends at a work place in connection with relevant employment,

and the provisions of paragraphs 9 to ►14◄ shall not apply.

(3) For the purposes of sub-paragraph (2)(b) there shall be disregarded any day upon which the relevant person attends at a work place and in order to travel to or from that work place he undertakes a journey in respect of which—

- (a) the travelling costs are borne wholly or in part by the relevant employer; or
- (b) the relevant employer provides transport for any part of the journey for the use of the relevant person,

and where he attends at more than one work place on the same day that day shall be disregarded only if the condition specified in this sub-paragraph is satisfied in respect of all the work places at which he attends on that day.

**9.** There shall be calculated, or if that is impracticable, estimated—

- (a) the straight-line distances between the relevant person's home and each work place; and
- (b) the straight-line distances between each of the relevant person's work places, other than those between which he does not ordinarily travel.

**10.** Subject to paragraph 11, there shall be calculated for each pair of places referred to in paragraph 9 the number of journeys which the relevant person makes between them during a period comprising a whole number of weeks which appears to the ►Secretary of State◄ to be representative of the normal working pattern of the relevant person.

**11.** For the purposes of the calculation required by paragraph 10 there shall be disregarded—

- (a) any pair of journeys between the same work place and the relevant person's home where the first journey is from his work place to his home and the time which elapses between the start of the first journey and the conclusion of the second is not more than two hours; and
- (b) any journey in respect of which—
  - (i) the travelling costs are borne wholly or in part by the relevant employer;

See note (a) above.



or

- (ii) the relevant employer provides transport for any part of the journey for the use of the relevant person.

12. The result of the calculation of the number of journeys made between each pair of places required by paragraph 10 shall be multiplied by the result of the calculation or estimate of the straight-line distance between them required by paragraph 9.

13. All the products of the multiplication's required by paragraph 12 shall be added together and the resulting sum divided by the number of weeks in the period.

14. Where the result of the division required by paragraph 13 is less than or equal to ►240◄, the amount to be allowed in respect of travelling costs shall be nil, and where it is greater than ►240◄, the weekly allowance to be made in respect of the relevant person's travelling costs shall be ►6 pence◄ multiplied by the number by which that number excess ►240◄.

In para. 14 figures 150 and 10 pence substituted for 240 & 6 pence by reg. 5(4)(b) of S.I. 2004/2415 as from 16.9.04.

### Computation in cases where there is more than one relevant employment

15.—(1) Subject to sub-paragraph (2) and paragraphs 21 to 23, where the relevant person has more than one relevant employment the amount to be allowed in respect of travelling costs for the purposes of regulations 9 and 11 shall be determined in accordance with paragraphs 16 to 20.

(2) Where it appears that in respect of any of his relevant employment's, whilst the relevant person works at more than one work place, his pattern of work is not sufficiently regular to enable the actuation of the amount to be allowed in respect of his travelling costs to be made readily, the ►Secretary of State◄ –

Words substituted in para. 15(2) by art. 22 of S.I. 1999/1510 as from 1.6.99.

- (a) may select a place which is either one of the relevant person's work places in that relevant employment or some other place which is connected with that relevant employment;
- (b) may calculate the weekly average distance travelled in the course of his journeys made in connection with the relevant employment upon the basis that–
  - (i) the relevant person makes one journey from his home, or from another work place or deemed work place in another relevant employment, to the deemed work place and one journey from the deemed work place to his home, or to another work place or deemed work place in another relevant employment, on each day on which he attends at a work place in connection with the relevant employment in relation to which the deemed work place has been selected, and
  - (ii) the distance he travels between those places is the straight-line distance between them; and
- (c) shall disregard any journeys made between work places in the relevant employment in respect of which a deemed work place has been selected.

(3) For the purposes of sub-paragraph (2)(b) there shall be disregarded any day upon which the relevant person attends at a work place and in order to travel to or from that work place he undertakes a journey in respect of which–

- (a) the travelling costs are borne wholly or in part by the relevant employer; or
- (b) the relevant employer provides transport for any part of the journey for the use of the relevant person,

and where in the course of the particular relevant employment he attends at more than one work place on the same day, that day shall be disregarded only if the condition specified in this paragraph is satisfied in respect of all the work places at which he attends on that day in the course of that employment.



## Schs. 3B

Paras. 17 and 17A substituted for para. 17 by reg. 49 of S.I. 1995/3261 as from 22.1.96, subj. to reg. 57(3) *ibid.* (change in amount of assessment not effective before 22.1.96). Words substituted in para. 17 by art. 22 of S.I. 1999/1510 as from 1.6.99.

16. there shall be calculated, or if that is impracticable, estimated—
- (a) the straight-line distances between the relevant person's home and each work place; and
  - (b) the straight-line distances between each of the relevant person's work places, except—
    - (i) those between which he does not ordinarily travel, and
    - (ii) those for which a calculation of the distance from the relevant person's home is not required by virtue of paragraph 15(c).

►17. Subject to paragraph 17A, there shall be calculated, or if that is impracticable estimated, for each pair of places referred to in paragraph 16 between which straight-line distances are required to be calculated or estimated, the number of journeys which the relevant person makes between them during a period comprising a whole number of weeks which appears to the ►Secretary of State◄ to be representative of the normal working pattern of the relevant person.

17A. For the purposes of the calculation required by paragraph 17, there shall be disregarded—

- (a) any pair of journeys between the same work place and his home where the first journey is from his work place to his home and the time which elapses between the start of the first journey and the conclusion of the second is not more than two hours; and
- (b) any journey in respect of which—
  - (i) the travelling costs are borne wholly or in part by the relevant employer; or
  - (ii) the relevant employer provides transport for any part of the journey for the use of the relevant person.◄

18. The result of the calculation or estimate of the number of journeys made between each pair of places required by paragraph 17 shall be multiplied by the result of the calculation or estimate of the straight-line distance between them required by paragraph 16.

19. All the products of the multiplication's required by paragraph 18, shall be added together and the resulting sum divided by the number of weeks in the period.

In para. 20 figures 150 and 10 pence substituted by 240 & 6 pence by reg. 5(4)(b) of S.I. 2004/2415 as from 16.9.04.

20. Where the result of the division required by paragraph 19, plus where appropriate the result of the calculation required by paragraph 15 in respect of a relevant employment in which a deemed work place has been selected, is less than or equal to ►240◄ the amount to be allowed in respect of travelling costs shall be nil, and where it is greater than ►240◄, the weekly allowance to be made in respect of the relevant person's travelling costs shall be ►6 pence◄ multiplied by the number by which that number exceeds ►240◄.

#### Relevant employments in respect of which no amount is to be allowed

21.—(1) No allowance shall be made in respect of travelling costs in respect of journeys between the relevant person's home and his work place or between his work place and his home in a particular relevant employment if the condition set out in paragraph 22 or 23 is satisfied in respect of that employment.

(2) The condition mentioned in paragraph 22, or as the case may be 23, is satisfied in relation to a case where the relevant person has more than one work place in a relevant employment only where the employer provides assistance of the kind mentioned

in that paragraph in respect of all of the work places to or from which the relevant person travels in the course of that employment, but those journeys in respect of which that assistance is provided shall be disregarded in computing the total distance travelled by the relevant person in the course of the relevant employment.

22. The condition is that the relevant employer provides transport of any description in connection with the employment which is available to the relevant person for any part of the journey between his home and his work place or between his work place and his home.

23. The condition is that the relevant employer bears any part of the travelling costs arising from the relevant person travelling between his home and his work place or between his work place and his home in connection with that employment, and for the purposes of this paragraph he does not bear any part of that cost where he does no more than—

- (a) make a payment to the relevant person which would fall to be taken into account in determining the amount of the relevant person's net income;
- (b) make a loan to the relevant person;
- (c) pay to the relevant person an increased amount of remuneration,

to enable the relevant person to meet those costs himself. ◀

## SCHEDULE 4

Regulation 26(1)(b)(i)

### CASES WHERE CHILD SUPPORT MAINTENANCE IS NOT TO BE PAYABLE

The payments and awards specified for the purposes of regulation 26(1)(b)(i) are—

- (a) the following payments under the Contributions and Benefits Act—
  - ▶<sup>1</sup>(i) incapacity benefit under section 30A(a);
  - (ii) long-term incapacity benefit for widows under section 40;
  - (iii) long-term incapacity benefit for widowers under section 41; ◀
  - (iv) maternity allowance under section 35 ▶<sup>2</sup>or 35B ◀;
  - (v) ▶<sup>3</sup> ◀

<sup>1</sup>Para. (a)(i)-(iii) substituted by reg. 58(a) of S.I. 1995/1045 as from 13.4.95.

<sup>2</sup>Words in para. (a)(iv) of Sch. 4 inserted by reg. 3(1) of S.I. 2014/884 as from 18.5.14.

<sup>3</sup>Sub-para. (v) of para. (a) deleted by reg. 58(b) of S.I. 1995/1045 as from 13.4.95.

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(a) Section 30A was inserted by section 1 of, and sections 40 and 41 substituted by paragraphs 8 and 9 of Schedule 1 to, the Social Security (Incapacity for Work) Act 1994 (c. 18.).

## Sch. 4-5

<sup>1</sup>Words substituted in para. (a)(viii) and sub-para. (xi) omitted by regs. 6(8)(a)-(b) of S.I. 2003/328 as from 6.4.03.

- (vi) attendance allowance under section 64;
- (vii) severe disablement allowance under section 68;
- (viii) <sup>1</sup>carer's allowance<sup>1</sup> under section 70;
- (ix) disability living allowance under section 71;
- (x) disablement benefit under section 103;
- (xi) <sup>1</sup><sup>1</sup>
- (xii) statutory sick pay within the meaning of section 151;
- (xiii) statutory maternity pay within the meaning of section 164;
- (b) awards in respect of disablement made under (or under provisions analogous to)–
  - (i) the War Pensions (Coastguards) Scheme 1944(a);
  - (ii) the War Pensions (Naval Auxiliary Personnel) Scheme 1964(b);
  - (iii) the Pensions (Polish Forces) Scheme 1964(c);
  - (iv) the War Pensions (Mercantile Marine) Scheme 1964(d);
  - (v) the Royal Warrant of 21st December 1964 (service in the Home Guard before 1945(e));
  - (vi) the Order by Her Majesty of 22nd December 1964 concerning pensions and other grants in respect of disablement or death due to service in the Home Guard after 27th April 1952(f);
  - (vii) the Order by Her Majesty (Ulster Defence Regiment) of 4th January 1971(g);
  - (viii) the Personal Injuries (Civilians) Scheme 1983(h);
  - (ix) the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(i); <sup>2</sup><sup>2</sup>
  - <sup>2</sup>(x) the Armed Forces (Pensions and Compensation) Act 2004; <sup>3</sup><sup>3</sup>
- (c) payments from <sup>4</sup>the Independent Living (1993) Fund or the Independent Living (Extension) Fund <sup>3</sup>; <sup>5</sup><sup>5</sup>
- (d) personal independence payment in accordance with Part 4 of the Welfare Reform Act 2014 <sup>5</sup>; and
- (e) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011. <sup>4</sup><sup>4</sup>

<sup>2</sup>Word 'and' omitted from sub-para (ix) & sub-para (x) inserted by reg. 4(4) of S.I. 2005/785 as from 16.3.05.

<sup>3</sup>Words omitted & para. (d) inserted by paras. 13(3)(a) & (b) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>4</sup>Words in head (c) substituted & Sch. 5 inserted by regs. 26(3) & 34 of S.I. 1993/913 as from 5.4.93.

<sup>5</sup>Word omitted & para. (e) inserted by para. 7(3) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>6</sup>Paras. 1-8 deleted by art. 23 of S.I. 1999/1510 as from 1.6.99.

## <sup>4</sup>SCHEDULE 5

Regulation 28(5)

### PROVISIONS APPLYING TO CASES TO WHICH SECTION 43 OF THE ACT AND REGULATION 28 APPLY

<sup>6</sup><sup>6</sup>

**9.** The provisions of paragraphs (1) and (2) of regulation 5 of the Child Support (Collection and Enforcement) Regulations 1992(j) shall apply to the transmission of payments in place of payments of child support maintenance under section 43 of the Act and regulation 28 as they apply to the transmission of payments of child support maintenance. <sup>6</sup>

- 
- (a) S.I. 1944/500.
  - (b) S.I. 1964/1985.
  - (c) S.I. 1964/2007.
  - (d) S.I. 1964/2058.
  - (e) Cmnd. 2563.
  - (f) Cmnd. 2564.
  - (g) Cmnd. 4567.
  - (h) S.I. 1983/686.
  - (i) S.I. 1983/883.
  - (j) S.I. 1992/1989.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for various matters relating to the calculation of child support maintenance under the Child Support Act 1991 (“the Act”) and also make provision for special cases under the Act.

Regulation 1 contains interpretation provisions. Regulation 2 contains general provisions regarding calculations under the Act.

Regulation 3 prescribes the amounts which are to be taken into account in the maintenance requirement formula in paragraph 1 of Schedule 1 to the Act. Regulation 4 defines the “basic rate” of child benefit for the purposes of that paragraph.

Regulation 5 prescribes values for the general rule formula in paragraph 2 of Schedule 1 to the Act. Regulation 6 prescribes an amount and a value for the purposes of the additional element formula in paragraph 4 of that Schedule.

Regulations 7 and 8 and Schedules 1 and 2 prescribe the amounts to be taken into account as assessable income for the purposes of paragraph 5 of Schedule 1 to the Act.

Regulations 9 and 10 prescribe the exempt income of the absent parent and the parent with care for the purposes of that paragraph.

Regulation 11 prescribes the protected income level of the absent parent for the purposes of paragraph 6 of Schedule 1 of the Act. Regulation 12 provides for the calculation of disposable income of the absent parent for the purposes of that paragraph.

Regulation 13 prescribes the minimum amount of child support maintenance for the purposes of paragraph 7 of schedule 1 to the act.

Regulations 14 to 18 and Schedule 3 make provision for the calculation or estimation of housing costs for the purposes of determining exempt income and protected income.

Regulations 19 to 27 and Schedule 4 prescribe the circumstances in which cases are to be treated as special cases for the purposes of the Act. These include cases where both parents are absent; where more than one application for child support maintenance is made in relation to the same absent parent; where care arrangements are shared and for child support maintenance not to be payable in certain circumstances.

Regulation 28 makes provision for the amount payable where the absent parent is in receipt of income support or other prescribed benefit.



## ANNEX 1

Extract from Social security (Contributions) Regulations 1979,  
S.I. 1979/591

(referred to in para. 1(1)(i)(iv) of Sch. 1 to S.I. 1992/1815 above.)

### SCHEDULE 3

Regulation 113

#### ►PART I

#### **Prescribed establishments and organisations for purposes of section 116(3) of the Social Security Contributions and Benefits Act 1992**

Pt. I substituted by reg. 6 of S.I. 1980/1975 as from 8.1.81.

1. Any of the regular naval, military or air forces of the Crown,
2. Retired and Emergency Lists of Officers of the Royal Navy.
3. Royal Naval Reserves (including Women's Royal Naval Reserve and Queen Alexandra's Royal Naval Nursing Service Reserve).
4. Royal Marines Reserve.
5. Army Reserves (including Regular Army Reserve of Officers, Regular Reserves, Long Term Reserve and Army Pensioners).
6. Territorial and Army volunteer Reserve.
7. Royal Air Force Reserves (including Royal Air Force Reserve of Officers, Women's Royal Air force Reserve of Officers, Royal Air Force Volunteer Reserve, Women's Royal Air Force volunteer Reserve, Class E Reserve of Airmen, Princess Mary's Royal Air Force Nursing Service Reserve, Officers on the Retired List of the Royal Air Force and Royal Air Force Pensioners).
8. Royal Auxiliary Air Force (including Women's Royal Auxiliary Air Force).

►9. the Royal Irish Regiment, to the extent that its members are not members of any force falling within paragraph 1 of this Part of this Schedule.◄

Para. 9 of Pt. I of Sch. 3 sub-stituted by reg. 4 of S.I. 1994/1553 as from 6.7.94.

*\*Reference amended in consequence of consolidation in Social Security Contributions and benefits Act 1992.*



## ANNEX 2

## Extracts from Sch. 5 to the Education (Mandatory Awards) Regulations 1995, S.I. 1995/3321

(reproduced for purposes of the definition of "student" in reg. 1(2) of S.I. 1992/1815 above.)

## SCHEDULE 5

## SANDWICH COURSES

## 1.—(1) In this schedule—

"sandwich course" means a course consisting of alternate periods of full-time study in an institution and periods of experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period;

"periods of experience" means, subject to sub-paragraph (2), periods of industrial, professional or commercial experience associated with full-time study at the institution but at a place outside the institution, other than periods of—

- (a) unpaid service in a hospital or in a public health service laboratory in the United Kingdom;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to health, welfare or the care of children and young persons or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;
- (c) unpaid service in the prison or probation and aftercare service in the United Kingdom;
- (d) teaching practice;
- (e) unpaid research in an institution or, in the case of a student attending an overseas institution as a necessary part of his course, in an over-seas institution;
- (f) such experience as aforesaid falling wholly within the usual periods of attendance at the institution in any year which do not comprise paid service or employment and either—
  - (i) do not aggregate more than 6 weeks during that year; or
  - (ii) fall within that year and another year and do not aggregate more than 12 weeks during the two years taken together, where that other year has not already been taken into account for the purposes hereof; or
- (g) unpaid service with—
  - (i) **a Health Authority established pursuant to section 8 of the National Health Service Act 1977(a) or a Special Health Authority established pursuant to section 11 of that Act(b);**
  - (ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(c); or
  - (iii) a health and social services board established under article 16 of the Health and Personal Social Services Order (Northern Ireland) 1972(d);

(a) 1977 c.49; section 8 was substituted by the Health Authorities Act 1995 (c.17), section 1(1).

(b) Section 11 was amended by the Health Services Act 1980 (c.53), Schedule 1, paragraph 31, the National Health Service and Community Care Act 1990 (c.19), Schedule 10 and the Health Authorities Act 1995 (c.17), Schedule 1, paragraph 2.

(c) 1978 c.29.

(d) S.I. 1972/1265 (N.I. 14).

(2) In the case of a student whose course includes the study of one or more modern languages for not less than one half of the time spent studying on the course and which includes periods of residence in a country whose language is a language of the course, "periods of experience" means such periods of residence for which he is in gainful employment.

.....  
*Text which has changed as from 1.9.96 as a result of S.I. 1995/3321 is indicated by the use of bold print.*

### ANNEX 3

#### Para. 19 of Sch. 2 to Family Credit (General) Regulations 1987, S.I. 1987/1973

*(referred to in para. 22 of Sch. 2 to S.I. 1992/1815 above.)*

▶19. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by ▶another person◀ and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of 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 his family, or by that person and a member of his family; and
- (b) a further ▶£9.25◀, where the aggregate of any such payments is inclusive of an amount for heating.◀

Para. 19 substituted by reg. 22(2) of S.I. 1994/527 as from 12.4.94.

Words in para. 19 substituted by reg. 15(c) of S.I. 1995/516 as from 11. 4.95. or later expiry of award. Amount £9.25 substituted for £9.20 in para. 19(b) by art. 16(e) of S.I. 1996/599 as from 9.4.96 or later expiry of award.

### ANNEX 4

#### Regulation 2(1) of Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976, S.I. 1976/1267

*(referred to in reg. 4 of S.I. 1992/1815 above.)*

## Annex 4

**Weekly rates of child benefit**

►2.—(1) Subject to paragraph (2) of this regulation and regulation 20(1) of the general Regulations (transitional provision relating to apprentices in respect of whom a family allowance was payable under the Family Allowances Acts 1965 to 1975) the weekly rate of child benefit payable in respect of a child ►shall be-

- (a) subject to paragraphs (2ZA) and (2ZB) of this regulation, in a case where in any week that child is the only child, or if not the only child, the elder or eldest child in respect of whom child benefit is payable to a person, ►£10.80◄; and
- (b) in any other case, ►£8.80◄◄◄

Reg. 2(1) substituted by reg. 2(2) of S.I. 1977/1328 as from 3.4.78.

Words, and sub-paragraphs (a) and (b), in reg. 2(1) substituted for words by reg. 2(a) of S.I. 1991/1502 as from 8.4.91. Amount £10.80 substituted for £10.80 substituted for £10.40 in reg. 2(1)(a) by art. 13(a) of S.I. 1996/599 as from 8.4.96. Amount £8.80 substituted for £8.45 in reg. 2(1)(b) by art. 13(b) of S.I. 1996/599 as from 8.4.96.

**ANNEX 5**

“Benefit payments” for the purposes of paragraph 6(2) of Sch. 1 to S.I. 1992/1815 (The Child Support (Maintenance Assessments and Special cases) Regulations 1992)

<i>Benefit</i>	<i>Sec. of S.S. Conts. &amp; Bens. Act 1992</i>
Child benefit - one -parent benefit only (not basic rate of child benefit)	141,145(2)
Child's special allowance (existing beneficiaries only)	20
Disablement benefit (Dis.B.)	94(2)
Disablement gratuity	106
Disability working allowance	123(1)
Family credit	123(1)
Graduated retirement benefit	62
Hospital treatment allowance (part of Dis.B.)	106
Incapacity benefit (from 13.4.95)	20
Income support	123(1)
Increase of dis. B. during hospital treatment	106
Industrial death benefit	94(2)
Industrial injuries disablement benefit (Dis. B.)	94(2)
Invalid care allowance	63
Invalidity benefit (up to 12.4.95)	20
Maternity allowance	20
One-parent benefit	145(2)
Reduced earnings allowance	94(2)
Retirement allowance	94(2)
Retirement pension category A	20
Retirement pension, Category B	20
Retirement pension, category C	63
Retirement pension, category D	63
Severe disablement allowance (including age-related addition)	63
Sickness benefit (p to 12.4.95)	20
Unemployability supplement (part of Dis.B.)	106
Widow's benefit (widow's payment, WMA, widow's pension)	20

*Note:- statutory sick pay and statutory maternity pay count as "earnings" under Part I (see para. 1(1)(g) of Sch. 1 to S.I. 1992/1815, and are accordingly not included in the above list of "benefit payments" under Part II of that Schedule.*

