

SCHEDULE 2

Remissions and part-remissions

Interpretation

1.—(1) In this Schedule—

“child” means a child or young person in respect of whom a party is entitled to receive child benefit in accordance with section 141, and regulations made under section 142, of the Social Security Contributions and Benefits Act 1992⁽¹⁾;

“child care costs” has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006⁽²⁾;

“couple” has the meaning given in section 3(5A) of the Tax Credits Act 2002⁽³⁾;

“disposable monthly income” has the meaning given in paragraph 5;

“excluded benefits” means—

- (a) any of the following benefits payable under the Social Security Contributions and Benefits Act 1992—
 - (i) attendance allowance paid under section 64;
 - (ii) severe disablement allowance;
 - (iii) carer’s allowance;
 - (iv) disability living allowance;
 - (v) constant attendance allowance paid under section 104 or paragraph 4 or 7(2) of Schedule 8 as an increase to a disablement pension;
 - (vi) council tax benefit;
 - (vii) any payment made out of the social fund;
 - (viii) housing benefit;
- (b) any direct payment made under the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003⁽⁴⁾ or the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2004⁽⁵⁾;
- (c) a back to work bonus payable under section 626 of the Jobseekers Act 1995⁽⁶⁾;
- (d) any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983⁽⁷⁾;
- (e) any pension paid under the Naval, Military and Air Forces etc (Disablement and Death) Service Pension Order 2006⁽⁸⁾;
- (f) any payment made from the Independent Living Funds; and
- (g) any financial support paid under an agreement for the care of a foster child;

(1) 1992 c.4.

(2) S.I. 2006/2492, to which there are amendments not relevant to this Order.

(3) 2002 c.21. Section 3(5A) was inserted by paragraph 144 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

(4) S.I. 2003/762.

(5) S.I. 2004/1748.

(6) 1995 c.18.

(7) S.I. 1983/686.

(8) S.I. 2006/606.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“the Funding Code” means the code approved under section 9 of the Access to Justice Act 1999⁽⁹⁾;

“gross annual income” means total annual income, for the 12 months preceding the application for remission or part remission, from all sources other than receipt of any of the excluded benefits;

“gross monthly income” means total monthly income, for the month in which the application for remission or part remission is made, from all sources other than receipt of any of the excluded benefits;

“the Independent Living Funds” has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006;

“LSC” means the Legal Services Commission established under section 1 of the Access to Justice Act 1999;

“partner” means a person with whom the party lives as a couple and includes a person with whom the party is not currently living but from whom the party is not living separate and apart;

“party” means the party who would, but for this Schedule, be liable to pay the fee required under this Order;

“restraint order” means—

- (a) an order under section 42(1A) of the Supreme Court Act 1981⁽¹⁰⁾; or
- (b) a civil restraint order under rule 3.11 of the Civil Procedure Rules 1998⁽¹¹⁾ or a practice direction made under that rule.

(2) Paragraphs 2, 3 and 4—

- (a) do not apply to a party who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issued under the Funding Code; and
- (b) are subject to the provisions of paragraph 10 (vexatious litigants).

⁽⁹⁾ 1999 c.22. Sections 1 and 9 were amended by S.I. 2005/3429.

⁽¹⁰⁾ 1981 c.54. Section 42(1A) was inserted by section 24 of the Prosecution of Offences Act 1985 (c.23).

⁽¹¹⁾ S.I. 1988/ 3132, amended by S.I.2004/2072; there are other amending instruments but none is relevant.