

SCHEDULE 2

Remissions and part remissions

Interpretation

1.—(1) In this Schedule—

“couple” has the meaning given in section 3(5A) of the Tax Credits Act 2002⁽¹⁾;

“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⁽²⁾ or the corresponding provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽³⁾—
 - (i) attendance allowance;
 - (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⁾, the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2004⁽⁵⁾, the Carers and Direct Payments Act (Northern Ireland) 2002⁽⁶⁾, the Children (Northern Ireland) Order 1995⁽⁷⁾, or the Social Work (Scotland) Act 1968⁽⁸⁾;
- (c) a back to work bonus payable under section 26 of the Jobseekers Act 1995⁽⁹⁾ or the corresponding provision of the Jobseekers (Northern Ireland) Order 1995⁽¹⁰⁾;
- (d) any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983⁽¹¹⁾;
- (e) any pension paid under the Naval, Military and Air Forces etc (Disablement and Death) Service Pension Order 2006⁽¹²⁾;
- (f) any payment made from the Independent Living Fund, the Independent Living (Extension) Fund, the Independent Living (1993) Fund and the Independent Living Fund 2006; and
- (g) any financial support paid under an agreement for the care of a foster child;

(1) 2002 c.21. Section 3(5A) was inserted by paragraph 144 of Schedule 24 to the [Civil Partnership Act 2004](#) (c.33).

(2) 1992 c. 4.

(3) 1992 c. 7 (N.I.).

(4) S.I. 2003/762.

(5) S.I. 2004/1748, amended by S.I. 2006/2840; there are other amending instruments but none is relevant.

(6) 2002 c. 6 (N.I.).

(7) S.I. 1995/755 (N.I. 2).

(8) 1968 c. 49 (S.).

(9) 1995 c.18.

(10) S.I. 1995/2705 (N.I. 15).

(11) S.I. 1983/686.

(12) S.I. 2006/606.

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“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 Fund” means the charitable trust established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

“the Independent Living (Extension) Fund” means the Trust of that name established by a deed dated 25th February 1993 and 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;

“the Independent Living (1993) Fund” means the Trust of that name established by a deed dated 25th February 1993 and 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;

“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;

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

“qualifying benefit” means—

- (a) income support under the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (b) working tax credit, provided that no child tax credit is being paid to the party;
- (c) income-based jobseeker’s allowance under the Jobseekers Act 1995 or the Jobseekers (Northern Ireland) Order 1995;
- (d) guarantee credit under the State Pension Credit Act 2002⁽¹³⁾ or the State Pension Credit Act (Northern Ireland) 2002⁽¹⁴⁾; and
- (e) income-related employment and support allowance under the Welfare Reform Act 2007⁽¹⁵⁾ or the Welfare Reform Act (Northern Ireland) 2007⁽¹⁶⁾.

(2) Paragraphs 2, 3 and 4 do not apply to a party—

- (a) who is in receipt of funding provided by the Legal Services Commission established under section 1 of the Access to Justice Act 1999⁽¹⁷⁾ for the purposes of the proceedings for which a certificate has been issued under the code approved under section 9 of that Act;
- (b) who is in receipt of legal aid under Part 2 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981⁽¹⁸⁾ for the purposes of the proceedings; or
- (c) who, if they are is living in Scotland, is in receipt of legal aid.

⁽¹³⁾ 2002 c.16.

⁽¹⁴⁾ 2002 c. 14 (N.I.).

⁽¹⁵⁾ 2007 c. 5.

⁽¹⁶⁾ 2007 c. 2 (N.I.).

⁽¹⁷⁾ 1999 c. 22.

⁽¹⁸⁾ S.I. 1981/228 (N.I. 8).

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