

SCHEDULE 1

Pensioners: matters that must be included in an authority's scheme

PART 6

Income and capital for the purposes of calculating eligibility for a reduction under an authority's scheme and amount of reduction

CHAPTER 2

Income

Meaning of "income"

16.—(1) For the purposes of classes A to C, "income" means income of any of the following descriptions—

- (a) earnings;
- (b) working tax credit;
- (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
- (d) income from annuity contracts (other than retirement pension income);
- (e) a war disablement pension or war widow's or widower's pension;
- (f) a foreign war disablement pension or war widow's or widower's pension;
- (g) a guaranteed income payment;
- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(1), in any case where article 31(2)(c) applies;
- (i) income from capital other than capital disregarded under Part 1 of Schedule 6 (capital disregards);
- (j) social security benefits, other than retirement pension income or any of the following benefits—
 - (i) disability living allowance;
 - (ii) personal independence payment;
 - (iii) an AFIP;
 - (iv) attendance allowance payable under section 64 of the SSCBA(2);
 - (v) an increase of disablement pension under section 104 or 105 of that Act;
 - (vi) child benefit;
 - (vii) any guardian's allowance payable under section 77 of the SSCBA(3);
 - (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act;
 - (ix) any—

(1) S.I. 2011/517.

(2) 1992 c. 4; section 64 was amended by section 66 of the Welfare Reform and Pensions Act 1999 (c. 30); section 13 of, and paragraph 41 of Schedule 1 to, the Pensions Act 2007 (c. 22); and sections 97 and 147 of, and paragraph 5 of Schedule 9 and paragraph 1 of Schedule 14 to, the Welfare Reform Act 2012 (c. 5) but those amendments are not yet in force.

(3) Section 77 was amended by paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c. 21); paragraph 34 of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 4 of Schedule 1 to the Child Benefit Act 2005 (c. 6).

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- (aa) social fund payment made under Part 8 of that Act, or
- (bb) occasional assistance;
- (x) Christmas bonus payable under Part 10 of that Act;
- (xi) housing benefit;
- (xii) council tax benefit;
- (xiii) bereavement payment;
- (xiv) statutory sick pay;
- (xv) statutory maternity pay;
- (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA⁽⁴⁾;
- (xvii) additional statutory paternity pay payable under Part 12ZA of that Act;
- (xviii) statutory adoption pay payable under Part 12ZB of that Act;
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits mentioned above;
- (l) a payment made—
 - (i) under article 30 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006⁽⁵⁾, in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc (Workers' Compensation) Act 1979⁽⁶⁾;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
 - (i) under a court order;
 - (ii) under an agreement for maintenance; or
 - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982⁽⁷⁾; or

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

(5) S.I. 2006/606.

(6) 1979 c. 41.

(7) The Public Lending Right Scheme is appended to S.I. 1982/719; it was substituted by appendix 2 to S.I. 1990/2360. Amendments have since been made to it but they are not relevant to these Regulations.

- (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under—
 - (i) the Civil List Act 1837**(8)**,
 - (ii) the Civil List Act 1937**(9)**,
 - (iii) the Civil List Act 1952**(10)**,
 - (iv) the Civil List Act 1972**(11)**, or
 - (v) the Civil List Act 1975**(12)**;
- (u) any income in lieu of that specified in paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who—
 - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
 - (ii) occupies part of the property; and
 - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002**(13)**.

(2) Where the payment of any social security benefit referred to in sub-paragraph (1) is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.

(3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

- (4) The adjustments specified in this paragraph are those made in accordance with—
- (a) the Social Security (Overlapping Benefits) Regulations 1979**(14)**;
 - (b) the Social Security (Hospital In-Patients) Regulations 1975**(15)**;
 - (c) section 30DD or section 30E of the SSCBA**(16)** (reductions in incapacity benefit in respect of pensions and councillor's allowances);

(8) 1837 c. 2.

(9) 1937 c. 32.

(10) 1952 c. 37.

(11) 1972 c. 7.

(12) 1975 c. 82.

(13) 2002 c. 16; the definition of PPF periodic payments was inserted by article 2 of [S.I. 2006/343](#).

(14) [S.I. 1997/597](#).

(15) [S.I. 1975/555](#).

(16) 1992 c. 4; section 30DD was inserted by section 63 of the Welfare Reform and Pensions Act 1999 (c. 30). The heading, and subsections (1) and (4) were amended by article 2 of [S.I. 2006/343](#) and subsection (6) was amended by article 4 of [S.I. 2006/745](#). Section 30E was inserted by section 3 of the Social Security (Incapacity for Work) Act 1994 (c. 18). Both section 30DD and section 30E have been repealed by paragraph 9 of Schedule 3 to the Welfare Reform Act 2007 (c. 5) but that provision is not yet in force.

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- (d) section 3 of the Welfare Reform Act 2007⁽¹⁷⁾ (deductions from contributory employment and support allowance in respect of pensions and councillor’s allowances) and regulations made under it.
- (5) In sub-paragraph (1)—
 - (a) in paragraph (w) an “equity release scheme” means a loan—
 - (i) made between a person (“the lender”) and the applicant;
 - (ii) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
 - (iii) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home; and
 - (b) in paragraph (J)(ix) “occasional assistance” means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of—
 - (i) meeting, or helping to meet an immediate short-term need—
 - (aa) arising out of an exceptional event or exceptional circumstances, or
 - (bb) that needs to be met to avoid a risk to the well-being of an individual; and
 - (ii) enabling qualifying individuals to establish or maintain a settled home, and “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—
 - (aa) in prison, hospital, an establishment providing residential care or other institution, or
 - (bb) homeless or otherwise living an unsettled way of life.
- (6) In sub-paragraph (5)(b) “local authority” means a local authority in England within the meaning of the Local Government Act 1972⁽¹⁸⁾.

⁽¹⁷⁾ 2007 c. 5; section 3 has been amended by paragraph 1 of Schedule 14 and paragraph 26 of Schedule 3 to the Welfare Reform Act 2012 (c. 5) but those provisions are not yet in force.

⁽¹⁸⁾ 1972 c. 70. The definition of local authority was amended by section 102 of, and paragraph 8 of Schedule 16 and Schedule 17 to, the Local Government Act 1985. Other amendments have been made to that definition but they are not relevant to these Regulations.