

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

Additional condition referred to in paragraph 25(10)(b)(i): disability

26.—(1) Subject to sub-paragraph (2), the additional condition referred to in paragraph 25(10)(b)(i) is that either—

- (a) the applicant or, as the case may be, the other member of the couple—
 - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002⁽¹⁾, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or
 - (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant has since remained continuously entitled to council tax benefit (for the period prior to 1st April 2013) or a reduction under an authority's scheme (for the period on or after 1st April 2013) and, if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
 - (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 25(10)(g) (treatment of child care charges); or
 - (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 25(10)(g); or
 - (v) was in receipt of an AFIP but its payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution; or
 - (vi) is provided by the Secretary of State or a clinical commissioning group with an invalid carriage or other vehicle under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or, in Scotland, under section 46 of the National Health

(1) S.I. 2002/2005.

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Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 10(3) of Schedule 1 to the Act of 2006(2) or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or

(vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

(b) the applicant, or as the case may be, the other member of the couple—

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA(3) (incapacity for work); and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4)(4) of the SSCBA, 196 days;

(bb) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods must be treated as one continuous period.

(4) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the SSCBA (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(5) In the case of a person who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(5) applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA) the reference to a period of 56 days in sub-paragraph (3) must be treated as a reference to a period of 104 weeks.

Commencement Information

II Sch. 1 para. 26 in force at 27.11.2012, see [reg. 1\(1\)](#)

- (2) Sub-paragraph (3) has been amended by section 17 of the Health and Social Care Act 2012 (c. 7) but those provisions are not yet fully in force.
- (3) Part 12A was inserted by section 5 of the Social Security (Incapacity for Work) Act 1994 (c. 18) and amended by the Welfare Reform and Pensions Act 1999 (c. 30). It was repealed by sections 28 and 67 of, and paragraph 9 of Schedule 3 and Schedule 8 to, the Welfare Reform Act 2007 (c. 5) but those provisions are not yet in force.
- (4) Section 30B was inserted by section 2 of the Social Security (Incapacity for Work) Act 1994 and amended by section 91 of, and paragraphs 3 and 4 of Schedule 9 to, the Welfare Reform Act 2012, but those amendments are not yet in force. It has also been repealed by paragraph 9 of Schedule 3 to the Welfare Reform Act 2007 but those provisions are not yet in force.
- (5) [S.I. 1995/311](#); regulation 13A was inserted by [S.I. 1998/2231](#) and amended by [S.I. 1999/3109](#), [S.I. 2006/707](#) and [S.I. 2006/2378](#).

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Changes and effects yet to be applied to :

- Sch. 1 para. 26(1)(a)(vii) word omitted by S.I. 2016/211 Sch. 3 para. 135(5)(b)
- Sch. 1 para. 26(2) word substituted by S.I. 2015/643 Sch. para. 36(5)(b)(ii)
- Sch. 1 para. 26(1)(a)(ii) words inserted by S.I. 2015/1985 art. 39(3)(b)
- Sch. 1 para. 26(1)(a)(vii) words inserted by S.I. 2015/643 Sch. para. 36(5)(a)(i)
- Sch. 1 para. 26(1)(a)(vii) words inserted by S.I. 2015/643 Sch. para. 36(5)(a)(ii)
- Sch. 1 para. 26(2) words inserted by S.I. 2015/643 Sch. para. 36(5)(b)(i)
- Sch. 1 para. 26(1)(a)(vii) words inserted by S.I. 2016/211 Sch. 3 para. 135(5)(c)
- Sch. 1 para. 26(1)(a)(vii) words omitted by S.I. 2016/211 Sch. 3 para. 135(5)(a)
- Regulations words substituted by S.I. 2022/634 Sch. para. 1(1)(3)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- blanket amendment words substituted by S.I. 2023/1071 Sch. para. 1

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 8(7)(e) added by S.I. 2013/3181 reg. 2(7)(c)(vi)
- Sch. 1 para. 8(8)(c) and word added by S.I. 2014/3312 reg. 2(5)(a)(vi)(bb)
- Sch. 1 para. 16(1)(j)(xvii) inserted by S.I. 2014/3255 art. 27(4)(a)(iii)
- Sch. 1 para. 18(1)(ja) inserted by S.I. 2014/3255 art. 27(4)(b)(iii)
- Sch. 1 para. 8(11A) inserted by S.I. 2014/3312 reg. 2(5)(a)(vii)
- Sch. 1 para. 22(2)(d) inserted by S.I. 2015/1985 art. 39(3)(a)(ii)
- Sch. 1 para. 22(3)(d) inserted by S.I. 2015/1985 art. 39(3)(a)(iv)
- Sch. 1 para. 22(11A)-(11D) inserted by S.I. 2015/1985 art. 39(3)(a)(vi)
- Sch. 1 para. 17(3A) inserted by S.I. 2015/2041 reg. 2(3)(b)(ii)
- Sch. 1 para. 17(4A) inserted by S.I. 2015/2041 reg. 2(3)(b)(iii)
- Sch. 1 para. 5(3A)-(3G) inserted by S.I. 2016/1262 reg. 2(3)(a)(ix)
- Sch. 1 para. 5(2)(d) inserted by S.I. 2016/1262 reg. 2(3)(a)(vi)
- Sch. 1 para. 5(2A)-(2F) inserted by S.I. 2016/1262 reg. 2(3)(a)(vii)
- Sch. 1 para. 28(aa) inserted by S.I. 2016/1262 reg. 2(3)(d)(i)
- Sch. 1 para. 6(1A)-(1C) inserted by S.I. 2017/1305 reg. 7(b)
- Sch. 1 para. 8(10)(g) inserted by S.I. 2017/1305 reg. 8(h)
- Sch. 1 para. 16(4)(e)(f) inserted by S.I. 2017/1305 reg. 9(a)(iii)
- Sch. 1 para. 21(2)(d)(vi) and word inserted by S.I. 2017/1305 reg. 9(b)(iii)
- Sch. 1 para. 16(1)(j)(xx) inserted by S.I. 2018/1346 reg. 3(b)
- Sch. 1 para. 8(9)(ba) inserted by S.I. 2020/23 reg. 7(a)(vii)
- Sch. 1 para. 8(10)(aa) inserted by S.I. 2020/23 reg. 7(a)(ix)
- Sch. 1 para. 16(1)(j)(xvii) inserted by S.I. 2020/23 reg. 7(b)(i)
- Sch. 1 para. 16(1)(j)(xxi)(xxii) inserted by S.I. 2020/23 reg. 7(b)(ii)
- Sch. 1 para. 18(1)(jb) inserted by S.I. 2020/23 reg. 7(c)
- Sch. 1 para. 16(1)(j)(zi) inserted by S.I. 2021/29 reg. 6(b)(i)
- Sch. 1 para. 16(1)(j)(xxiii)-(xxvii) inserted by S.I. 2021/29 reg. 6(b)(iii)
- Sch. 1 para. 8(9)(bb)(bc) inserted by S.I. 2022/25 reg. 5(2)(f)(ii)
- Sch. 1 para. 8(10)(ab)(ac) inserted by S.I. 2022/25 reg. 5(2)(g)
- Sch. 1 para. 25(13)(aa) inserted by S.I. 2022/25 reg. 5(3)
- Sch. 1 para. 8(6)(b)(iiia) inserted by S.I. 2023/16 reg. 6(2)(f)(ii)
- Sch. 1 para. 16(1)(j)(iia) inserted by S.I. 2023/16 reg. 6(3)
- Sch. 1 para. 25(10)(f)(x) inserted by S.I. 2023/16 reg. 6(4)(a)

- Sch. 1 para. 25(13)(ba) inserted by S.I. 2023/16 reg. 6(4)(b)
- Sch. 1 para. 25(8)(ka) inserted by S.I. 2019/237 Sch. 1 para. 21(2)(b)
- Sch. 1 para. 8(11)(a) substituted by S.I. 2016/211 Sch. 3 para. 135(2)
- Sch. 1 para. 16(5)(b)(i)(aa) word substituted by S.I. 2021/29 reg. 6(c)(i)
- Sch. 1 para. 16(5)(b)(i)(bb) word substituted by S.I. 2021/29 reg. 6(c)(ii)
- Sch. 2 para. 7(1)(aa) inserted by S.I. 2022/25 reg. 6(6)(b)
- Sch. 2 para. 8(aa) inserted by S.I. 2022/25 reg. 6(7)
- Sch. 2 para. 6(7)(ba) inserted by S.I. 2023/16 reg. 7(6)(d)
- Sch. 2 para. 7(1)(ab) inserted by S.I. 2023/16 reg. 7(7)(b)
- Sch. 2 para. 7(1)(c) and word inserted by S.I. 2023/16 reg. 7(7)(c)
- Sch. 2 para. 8(d)(e) inserted by S.I. 2023/16 reg. 7(8)
- Sch. 2 para. 1(3)(b) table sum substituted by S.I. 2014/448 reg. 2(2)(a)
- Sch. 2 para. 3(a) sum substituted by S.I. 2021/29 reg. 7(4)
- Sch. 2 para. 3(a) sum substituted by S.I. 2022/25 reg. 6(4)
- Sch. 2 para. 3(a) sum substituted by S.I. 2023/16 reg. 7(4)
- Sch. 2 para. 7(1)(aa) word omitted by S.I. 2023/16 reg. 7(7)(a)
- Sch. 2 para. 12(1)(b)(i) words inserted by S.I. 2015/2041 reg. 2(4)(d)(i)
- Sch. 2 para. 12(1)(b)(ii) words inserted by S.I. 2015/2041 reg. 2(4)(d)(ii)
- Sch. 4 para. 3(2)(ab) inserted by S.I. 2017/863 Sch. 2 para. 8(2)
- Sch. 4 para. 10(2)(b)(ii)(bb) substituted by S.I. 2015/2041 reg. 2(6)
- Sch. 5 para. 25 inserted by S.I. 2021/29 reg. 8(b)
- Sch. 5 para. 1(1)(g) substituted by S.I. 2017/1305 reg. 14(a)
- Sch. 6 para. 21(1)(f) inserted by S.I. 2013/3181 reg. 2(12)(a)(i)
- Sch. 6 para. 21(2)(p) inserted by S.I. 2013/3181 reg. 2(12)(a)(iv)
- Sch. 6 para. 22(2)(f) inserted by S.I. 2013/3181 reg. 2(12)(b)
- Sch. 6 para. 29A inserted by S.I. 2013/3181 reg. 2(12)(c)
- Sch. 6 para. 21(2)(q) and word inserted by S.I. 2014/3312 reg. 2(10)(a)(ii)
- Sch. 6 para. 29ZA inserted by S.I. 2014/513 Sch. para. 22(b)
- Sch. 6 para. 28A inserted by S.I. 2015/1985 art. 39(4)
- Sch. 6 para. 29B inserted by S.I. 2015/2041 reg. 2(8)
- Sch. 6 para. 29(f) and word inserted by S.I. 2015/643 Sch. para. 36(8)(d)
- Sch. 6 para. 16A inserted by S.I. 2017/1305 reg. 15(b)
- Sch. 6 para. 29C inserted by S.I. 2017/1305 reg. 15(d)
- Sch. 6 para. 16(1A) inserted by S.I. 2020/23 reg. 11(a)(ii)
- Sch. 6 para. 21(2)(r)-(t) inserted by S.I. 2020/23 reg. 11(b)(ii)
- Sch. 6 para. 16(1B) inserted by S.I. 2021/29 reg. 9(a)(ii)
- Sch. 6 para. 21(g) inserted by S.I. 2021/29 reg. 9(b)(i)
- Sch. 6 para. 21(2)(u)-(x) inserted by S.I. 2021/29 reg. 9(b)(ii)(bb)
- Sch. 6 para. 21(3) inserted by S.I. 2021/29 reg. 9(b)(iii)
- Sch. 6 para. 22(1A)(1B) inserted by S.I. 2021/29 reg. 9(c)(i)
- Sch. 6 para. 22(2)(g) inserted by S.I. 2021/29 reg. 9(c)(ii)
- Sch. 6 para. 29D-29F inserted by S.I. 2021/29 reg. 9(d)
- Sch. 6 para. 16(1C)(1D) inserted by S.I. 2022/25 reg. 9(a)
- Sch. 6 para. 29(g) and word word inserted by S.I. 2017/1305 reg. 15(c)(ii)
- Sch. 6 para. 21(2)(p) word omitted by S.I. 2020/23 reg. 11(b)(i)
- Sch. 6 para. 21(2)(s) word omitted by S.I. 2021/29 reg. 9(b)(ii)(aa)
- Sch. 8 para. 7(7)(aa) inserted by S.I. 2020/23 reg. 12(b)
- reg. 2(8) inserted by S.I. 2014/3312 reg. 2(2)(b)
- reg. 2(8)(b) words substituted by S.I. 2015/2041 reg. 2(2)(b)
- reg. 2(8)(aa) inserted by S.I. 2015/2041 reg. 2(2)(a)
- reg. 3(1) reg. 3 renumbered as reg. 3(1) by S.I. 2021/29 reg. 4(a)
- reg. 3(2)(3) inserted by S.I. 2021/29 reg. 4(b)
- reg. 4(b) words substituted by S.I. 2020/23 reg. 4
- reg. 6(3)(c) and word inserted by S.I. 2014/3312 reg. 2(3)(b)
- reg. 8(5)(na) inserted by S.I. 2013/3181 reg. 2(4)(b)(ii)
- reg. 12(4)(aa)(ab) inserted by S.I. 2013/3181 reg. 2(5)(a)
- reg. 12(4)(ab) omitted by S.I. 2020/23 reg. 6(a)(ii)
- reg. 12(4A) inserted by S.I. 2020/23 reg. 6(b)

- reg. 12(4A)(a) omitted by S.I. 2021/29 reg. 5(a)(i)
- reg. 12(4A)(b) word omitted by S.I. 2021/29 reg. 5(a)(ii)
- reg. 12(4A)(d) and word inserted by S.I. 2021/29 reg. 5(a)(iii)
- reg. 12(4B) inserted by S.I. 2021/29 reg. 5(b)
- reg. 12(5)(e)(ii) word omitted by S.I. 2022/25 reg. 4(3)(a)
- reg. 12(5)(e)(iv) and word inserted by S.I. 2022/25 reg. 4(3)(b)
- reg. 12(5)(h) word inserted by S.I. 2020/23 reg. 6(c)(i)
- reg. 12(5)(h) words omitted by S.I. 2014/3312 reg. 2(4)(a)
- reg. 12(5)(h)(i) inserted by S.I. 2013/3181 reg. 2(5)(b)(iii)
- reg. 12(5)(i) omitted by S.I. 2020/23 reg. 6(c)(iii)
- reg. 12(5)(ca)-(cc) inserted by S.I. 2021/29 reg. 5(d)
- reg. 12(5)(ha) added by S.I. 2014/3312 reg. 2(4)(c)
- reg. 12(5)(ha) word omitted by S.I. 2020/23 reg. 6(c)(ii)
- reg. 12(5)(za)(zb) inserted by S.I. 2022/25 reg. 4(2)
- reg. 12(5)(zb) word substituted by S.I. 2023/16 reg. 4(a)
- reg. 12(5)(zc) inserted by S.I. 2023/16 reg. 4(b)
- reg. 13(1A) inserted by S.I. 2013/3181 reg. 2(6)(b)
- reg. 13(1A) omitted by S.I. 2022/449 reg. 3(3)
- reg. 16 inserted by S.I. 2022/127 reg. 3(2)
- reg. 17 inserted by S.I. 2023/16 reg. 5