

SCHEDULE 2

Applicable amounts

PART 3

Premiums

4. The premiums specified in Part 4 are, for the purposes of paragraph 6(1)(d) of Schedule 1, applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.

5. Subject to sub-paragraph (2), for the purposes of this Part, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979(1) applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973(2), or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(3) or for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 9, a person is to be treated as being in receipt of a carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA(4) or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012(5) or an AFIP.

Severe disability premium

6.—(1) The condition is that the applicant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
 - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; and
 - (ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and

(1) S.I. 1979/597.

(2) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and subsequently amended by section 29 of, and Part 1 of Schedule 7 to, the Employment Act 1989 (c. 38) and, in relation to Scotland only, section 47 of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(3) 1990 c. 35; section 2 was amended by section 47 of the Trade Union Reform and Employment Rights Act 1993 (c. 19); article 4 of, and paragraph 100 of Schedule 2 to, S.I. 1999/1820; and paragraph 20 of Schedule 26 to the Equality Act 2010 (c. 15).

(4) 1992 c. 4; section 72 has been repealed by section 90 of the Welfare Reform Act 2012 (c. 5) but that provision is not yet in force.

(5) 2012 (c. 5).

Status: This is the original version (as it was originally made).

- (iii) no person is entitled to, and in receipt of, a carer's allowance in respect of caring for him;
- (b) in the case of an applicant who has a partner—
 - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP;
 - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and
 - (iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948(6) (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(7).

(5) For the purposes of sub-paragraph (4), 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.

- (6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—
 - (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; or
 - (b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).
- (7) For the purposes of sub-paragraph (2)(b) a person is to be treated—
 - (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
 - (b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would,

(6) 1948 c. 29. Subsection (1) was amended by section 195 of, and paragraph 2 of Schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11 of Schedule 13 and paragraph 1 of Schedule 14 to, the Children Act 1989 (c. 41). Other amendments have been made to this section but they are not relevant to these Regulations.

(7) 1994 c. 39; section 2 was amended by paragraph 232 of Schedule 22 to the Environment Act 1995 (c. 39).

- but for his being a patient for a period exceeding 28 days, be so entitled and in receipt notwithstanding section 86 of that Act and regulations made thereunder;
- (c) as being in receipt of an AFIP, if he would, but for any suspension of payment 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;
 - (d) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.
- (8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—
- (a) no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and
 - (b) a reference to a person being in receipt of a carer's allowance is to include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit)(8).

Enhanced disability premium

- 7.—(1) The condition is that—
- (a) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act; or
 - (b) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of payment in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate under section 78(2) of that Act,

in respect of a child or young person who is a member of the applicant's family.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA(9) (entitlement after death of child or qualifying young person).

Disabled child premium

8. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—

(8) 2001 c. 11; section 6B was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c. 24); sections 31, 113, 118, 119, 121 and 147 of, and paragraphs 56 and 58 of Schedule 2, paragraphs 15 and 16 of Schedule 3, Parts 1 and 12 of Schedule 14, to the Welfare Reform Act 2012 (c. 5) — of which only those made by section 113 (to subsection (1)(b)) are in force. Section 7 was amended by section 14 of, and Part 3 of Schedule 3 to, the State Pension Credit Act 2002 (c. 16); sections 28 and 49 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007 (c. 5); sections 9, 24 and 58 of, and paragraphs 9 and 11 of Schedule 2, Part 1 of Schedule 4 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c. 24) (of which those made by sections 9, 31 and Schedule 7 are not yet in force); article 3 of S.I. 2011/2298; sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of Schedule 2, paragraphs 15 and 17 of Schedule 3 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012. (c. 5), none of which are yet in force.

(9) 1992 (c. 4); section 145A was inserted by the Tax Credits Act 2002 (c. 21); subsections (1) and (4) were subsequently amended by section 1 of, and paragraphs 1 and 12 of Schedule 1 to, the Child Benefit Act 2005 (c. 6); subsections (2) and (5) were amended, and subsection (6) inserted, by section 254 of, and paragraph 48 of Schedule 24 to, the Civil Partnership Act 2004 (c. 33).

Status: This is the original version (as it was originally made).

- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind within the meaning of paragraph 6(4) of this Schedule or treated as blind in accordance with paragraph 6(5); or
- (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

Carer premium

9.—(1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.

- (2) Where a carer premium has been awarded but—
 - (a) the person in respect of whose care the carer's allowance has been awarded dies; or
 - (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,

this paragraph shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

- (3) The relevant date for the purposes of sub-paragraph (2) is—
 - (a) in a case within sub-paragraph (2)(a) the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
 - (b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

(4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

Persons in receipt of concessionary payments

10. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

Person in receipt of benefit

11. For the purposes of this Part, a person is to be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and is to be so regarded only for any period in respect of which that benefit is paid.