

## **Luton Borough Council**

### **The Council Tax Reduction Scheme Rules 2021 (working age applicants)**

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## **PART 1 Introduction**

### **1. Name and start of scheme**

This scheme may be cited as The Council Tax Reduction Scheme 2021 (working age applicants) and applies from 1 April 2021.

### **2. Making an application for a reduction**

An application for Universal Credit as notified to us by the Department of Work and Pensions will be treated as an application for Council Tax Reduction. In all other cases an application must be made in writing or by means of electronic communication. An application that is made in writing must be made to a designated office on a properly completed form. If the form is not properly completed, the applicant will be asked to correctly complete the form and return it within 1 calendar month of the date of request. If the applicant fails to comply then the application will not be considered.

(1) The authority may terminate any reduction in relation to persons who fail to comply with the information requirements as in Appendix 2 paragraph 5.

(2) Those persons shall cease to be entitled to the reduction from the date that the information was requested or such earlier date on which entitlement to a reduction under this scheme ceases.

### **3. Procedure for applying for a discretionary reduction**

Procedure for an application to the authority for a reduction under section 13A (1) (c) of the 1992 Act

(i) An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made:-

(a) in writing;

(b) by means of an electronic communication in accordance with Part 11 of Appendix 2; or

(c) where the authority has published a telephone number for the purposes of receiving such applications by telephone

(ii) Where:-

- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
- (b) a person in that class would otherwise be entitled to a reduction under this scheme that person's application for a reduction under this scheme may also be treated as an application for a reduction under section 13A (1) (c)

#### **4. Disputes and appeals**

An applicant may ask for a decision on their Council Tax Reduction to be revised if they dispute it. This request should be made in writing directly to Luton Borough Council and must clearly state why they feel the decision should be changed.

On receipt of a written dispute the authority must consider the matter to which the dispute relates and notify the applicant in writing of the outcome stating the steps taken and reasons for their decision within 2 months of the request.

If they are still dissatisfied or if no response has been received within 2 months of the request for a revision then they have a further 2 months to appeal to an independent tribunal. The request must be in writing and made directly to the Valuation Tribunal who administer Council Tax Reduction appeals.

The form that is required to lodge an appeal can be obtained from the Valuation Tribunal directly.

#### **5. Applicants entitled to a maximum reduction under this scheme**

The maximum reduction is the relevant percentage specified in income band 1. Applicants who fall into income band 1 are:

- (1) applicants whose calculated weekly excess income (defined in Part 3) is within the income range for income band 1 of their respective client group; or
- (2) an applicant in receipt of a passported benefit –
  - i. Income Support
  - ii. Job Seeker's Allowance (Income Based)
  - iii. Employment Support Allowance (Income Related)
  - iv. Maximum Universal Credit, except where there are additional earnings.

## 6. Entitlement for other eligible applicants

Where the applicant does not meet the criteria in paragraph (5), their entitlement will be based on the income band range in which their calculated excess weekly income falls.

## 7. Applicants excluded from this scheme

(a) Any person whose capital exceeds £16,000. Capital is to be calculated in accordance with Part 3, paragraph 20 of this scheme.

(b) Any student to whom Appendix 1 paragraph 2 applies

(c) Subject to paragraph (aa) persons subject to immigration control are not entitled to a reduction under this scheme. "*Person subject to immigration control*" has the meaning given in section 115 (9) of the Immigration and Asylum Act 1999.

(aa) A person who is a national of a state which has ratified the European Convention on social and Medical Assistance<sup>1</sup> (done in Paris on 11 December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18 October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph (c)

(d) Any applicant treated as not being in Great Britain<sup>2</sup>

(e) Any person whose sole main place of residence is not the property for which they are applying for Local Council Tax Reduction in Luton.

(f) Any person who is not liable to pay council tax in respect of the dwelling of which he is a resident as in (e)

(g) Who, subject to paragraph 12 of Appendix 3, is not absent from the dwelling throughout the day

(h) Any person who has not made an application as in paragraph 2a single applicant who is in receipt of state pension and in the case of a couple, where both the applicant and their partner are in receipt of state pension.

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<sup>1</sup> Cmd. 9512

<sup>2</sup> See Appendix 3 paragraph 11 as to persons treated as not being in Great Britain.

## PART 2 Amount of reduction for this scheme

### 8. Weekly in year liability

Any council tax reduction will be applied to the annual liability. This is the calculated annual liability after any discounts and non dependent deductions have been applied and does not include any arrears, credits or other charges.

### 9. Levels of reduction

- (1) the reduction applied will be equal to a percentage of the liability as referred to in paragraph (8)
- (2) the percentage to be applied will be based on the income of the applicant and partner/s, according to specified income bands
- (3) the maximum reduction is equivalent to the Band 1 percentage applied against the Council Tax liability.
- (4) the Income Band is the number allocated to the excess income range and related percentage
- (5) the Income Range is the applicant's weekly income (as calculated under these rules) to which the Council Tax Reduction (CTR) percentage relates. Where the applicant's calculated household weekly excess income falls on or within a range, then the related CTR percentage for their respective client group is applied against their liability
- (6) the percentage is the figure used to calculate the amount of CTR

Client group	Income range 1	award	Income range 2	award	Income range 3	award
Working age Passported disabled and carers	£0 and over	80%	N/A	N/A	N/A	N/A
Working age Passported with children	£0 and over	80%	N/A	N/A	N/A	N/A
Working age Passported	£0 and over	80%	N/A	N/A	N/A	N/A
Working age Non Passported disabled and carers	£0 - £14.99	80%	£15 - £29.99	60%	£30 - £49.99	40%
Working age Non Passported with children	£0 - £14.99	80%	£15 - £29.99	60%	£30 - £49.99	40%
Working age Non Passported Other	£0 - £14.99	80%	£15 - £29.99	60%	£30 - £49.99	40%

Client group	Income range 4	award	Income range 5	award	Income range 6	award
Working age Passported disabled and carers	N/A	N/A	N/A	N/A	N/A	N/A
Working age Passported with children	N/A	N/A	N/A	N/A	N/A	N/A
Working age Passported	N/A	N/A	N/A	N/A	N/A	N/A
Working age Non Passported disabled and carers	£50 - £69.99	15%	£70 and over	0%	£80 and over	0%
Working age Non Passported with children	£50 and over	0%	N/A	N/A	N/A	N/A
Working age Non Passported Other	£50 and over	0%	N/A	N/A	N/A	N/A

## **PART 3 Calculating income and capital**

### **10. Applicant's family and polygamous marriages**

The income and capital of any partner or partners of the applicant is to be treated as income and capital of the applicant

### **11. Universal credit**

Treatment of Universal Credit:

(1) Where there is an award of universal credit which is not a maximum award, subject to sub-paragraphs (a) to (c), the amount of universal credit to be used as income in an assessment of council tax reduction is the amount of the award of universal credit together with any additional earnings.

(a) Monthly amounts should be multiplied by 12 and divided by 52 to calculate weekly amounts.

(b) The authority may only adjust the amount of the income in cases where income and capital of the non-dependent is to be treated as the applicant's if the authority determines that the relevant provision applies in the applicant's case or such further reduction (if any) under section 13(A)(1)(c) of the 1992 Act (power of billing authority to reduce the amount of Council Tax payable) as the authority thinks fit.

(c) If the only deduction from an applicant's maximum award of universal credit is a sanction, this shall be ignored for the purposes of the council tax reduction calculation and the applicant shall be treated as if they were in receipt of maximum universal credit.

(d) When calculating the additional earnings use the gross figure less:

- (1) National Insurance
- (2) Income Tax
- (3) 50% of any occupational pension contribution

In all other cases the amount of the universal credit award to be taken into account as income will be the award amount after all deductions including any sanction (subject to paragraphs (a) and (b) above).

(2) Where there is an advance payment of universal credit this will be treated as income in an assessment of council tax reduction for the period to which the payment relates, any late notified advance payments will be treated as income for the period to which the payment relates and an adjustment will be made to the award of council tax reduction for that period.

## 12. Average weekly earnings of employed earners

(1) Where the income of an applicant consists of gross earnings<sup>3</sup> from employment as an employed earner his average weekly earnings should be estimated over a period immediately preceding the reduction week in which the application is made.

(2) The period should be 5 weeks, if the applicant is paid weekly, 6 weeks if paid fortnightly or 2 months, if paid monthly. If the income fluctuates or the applicant has not been employed long enough, the authority will choose more suitable periods to assess from.

(3) If the period referred to in (1) does not exceed a week, the weekly amount is to be the amount of that payment. If it exceeds a week, the weekly amount is to be determined—

(a) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;

(b) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.

(4) When calculating earned income use the gross figure less

(1) National Insurance

(2) Income Tax

(3) 50% of any occupational pension contribution

(5) Everyone who has earned income, other than those in receipt of Universal Credit will qualify for the standard earned income disregard. The disregard has different amounts, but whether you are a single claimant, lone parent or a couple, you only qualify for one amount.

(a) Permitted work approved by the DWP: £140.00. per week

(b) Lone Parents: £25 per week

(c) Sickness or Disability: £20 per week

(d) Carers: £20 per week

(e) Special Occupations: £20 per week

(f) Couples: £10 per week

(g) Single Claimants: £5 per week

(h) Additional Earned Income: £17.10 per week

See Appendix 3 paragraph 22. For the conditions for each amount, and which one you qualify for.

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<sup>3</sup> See Appendix 3 paragraph 13 for a definition of 'earnings'

### **13. Average weekly earnings of self-employed earners**

(1) The average weekly earnings must be estimated by reference to the earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed a year<sup>4</sup>.

(2) The weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

### **14. Average weekly income other than earnings**

(1) The income of an applicant which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks and nothing in this paragraph authorises the authority to disregard any such income other than that specified in Appendix 3 Paragraph 23

(2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable

(3) For the purpose of this paragraph income other than earnings is to be calculated in accordance with paragraph 15 (Calculation of income other than earnings)

(4) In general the following types of students are excluded from reductions

- (a) Full-time students, and
- (b) Students who are persons treated as not being in Great Britain<sup>5</sup>

Appendix 1 provides exemptions, details and definitions of students and their income

### **15. Calculation of income other than earnings**

(1) For the purposes of paragraph 14, the income of an applicant which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (5) be his gross income and any capital treated as income under paragraph 16 (capital treated as income).

(2) There is to be disregarded from the calculation of an applicant's gross income under sub-paragraph (1), any sum, where applicable specified in appendix 3 Paragraph 23

(3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.

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<sup>4</sup> See Appendix 3 paragraphs (14), (15) and (16)

<sup>5</sup> See paragraph Appendix 3 paragraph 11 as to persons treated as not being in Great Britain.

(4) Where the applicant, or where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations 2008, the amount of that benefit to be taken into account is the amount as if it had not been reduced.

(5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 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 is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

## **16. Capital treated as income**

(1) Any capital payable by instalments which are outstanding at the date on which the application is made, or treated as made, or, at the date of any subsequent revision or suppression, must, if the aggregate of the instalments outstanding and the amount of the applicants capital exceeds £6,000 be treated as income and shall be calculated as if it were a weekly income of

(a) £1 for each £250 in excess of £6,000 but not exceeding £16,000

(b) £1 for any excess which is not a complete £250

Subject to appendix 3 paragraph 19

(2) Any payment received under an annuity is to be treated as income.

(3) Any earnings to the extent that they are not a payment of income is to be treated as income.

(4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.

(5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant, is to be treated as income.

## **17. Notional income**

Subject to Appendix 3 paragraph 18 an applicant is to be treated as possessing income of which the applicant has deprived himself for the purpose of securing entitlement to a reduction under a council tax reduction scheme or increasing the amount of the reduction.

## **18. Earned income and child care charges**

Subject to Appendix 3 paragraph 10, if the applicant works over 16 hours a

week expenditure on child care is disregarded from their income up to £175 per week for one child or £300 per week for two or more children.

## **19. Calculation of average weekly income from tax credits**

The period over which a tax credit is to be taken into account is the period where the installment in respect of which payment of a tax credit is made is

- (a) a daily installment, the period is 1 day, being the day in respect of which the installment is paid;
- (b) a weekly installment, the period is 7 days, ending on the day on which the installment is due to be paid;
- (c) a two weekly installment, the period is 14 days, commencing 6 days before the day on which the installment is due to be paid;
- (d) a four weekly installment, the period is 28 days, ending on the day on which the installment is due to be paid.

## **20. Calculation of capital**

(1) All capital held by the applicant and their partner/s is to be taken into account, except for capital treated as income as per paragraph 16 and disregarded capital as specified in Appendix 4.

(2) Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 percent; and
- (b) the amount of any encumbrance secured on it.

(3) Capital which an applicant possesses in a country outside the United Kingdom must be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer, less, where there would be expenses attributable to sale, 10 percent and the amount of any encumbrances secured on it.

(4) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction or increasing the amount of that reduction. Notional capital is defined under Appendix 3 paragraph 20

(5) Except where an applicant possesses capital which is disregarded under Appendix 3 paragraph 20 (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share

## 21. Extended reductions

(1) The applicant is entitled to an Extended Reduction (ER) if they meet the conditions set out in sub-paragraphs (4) or (5)

(2) An ER is awarded from the date the change takes effect, and it lasts for four weeks. In each of those four weeks, the amount of the ER is the greater of:

- (a) The amount awarded in the last full benefit week before the ER started.
- (b) The amount which would be the applicant's entitlement in that particular week if there were no such thing as ER.

(3) Throughout the ER, all changes in the applicant's circumstances are ignored and no ER is awarded for council tax during any period where the applicant is not liable for council tax.

(4) The applicants who have been on a 'qualifying income-related benefit' will be entitled to an ER if:

- (a) the applicant or any partner starts employment or self-employment, or increases his or her hours or earnings;
- (b) this is expected to last for at least five weeks;
- (c) the applicant or partner has been entitled to Employment and Support Allowance income related (ESA(IR)), Job Seeker's Allowance income based (JSA(IB)), Job Seeker's Allowance contribution based (JSA(C)) or Income Support (IS) continuously for at least 26 weeks (or any combination of those benefits in that period);
- (d) Immediately before starting the job, etc, the applicant or partner was on ESA(IR), JSA(IB) or IS. At this point being on JSA(C) is not enough; and
- (e) Entitlement to ESA(IR), JSA(IB) or IS ceases as a result of starting the job, etc.

(5) The applicants who have been on a 'qualifying contributory benefit' will be entitled to an extended payment if:

- (a) the applicant or any partner starts employment or self-employment, or increases his or her hours or earnings;
- (b) this is expected to last for at least five weeks;
- (c) the applicant or partner has been entitled to Employment and Support Allowance contribution based (ESA(C)), Incapacity Benefit (IB) or Severe Disablement Allowance (SDA) continuously for at least 26 weeks (or any combination of those benefits in that period);
- (d) Immediately before starting the job, etc, the applicant or partner was on ESA(C), IB or SDA. And neither of them must be on ESA(IR), JSA(IB) or IS; and
- (e) Entitlement to ESA(C), IB or SDA ceases as a result of starting the job, etc.

## 22. Extended Reductions: Movers into an Authority's Area

Where—

- (1) an application is made to the authority (“the current authority”) for a reduction under this scheme, and
- (2) the applicant, or the partner of the applicant, is in receipt of an extended reduction from—
  - (a) another billing authority in England; or
  - (b) a billing authority in Wales, the current authority must reduce any reduction to which the applicant is entitled under this scheme by the amount of that extended reduction.

## 23: Applicable amounts

(1) Subject to paragraphs (2) and (3), the applicable amount for a week is the aggregate of such of the following amounts as may apply in his case—

- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with Part 1 paragraph 1 of Appendix 5;
- (b) subject to paragraph (i) an amount in respect of up to two individuals who are either children or young persons who are members of his family, determined in accordance with Part 1 paragraph 3 of Appendix 5;
  - (i) where the claimant has an award of child tax credit in respect of more than 2 individuals who are either children or young persons who are members of his family determined in accordance with Part 1 paragraph 3 of Appendix 5;
- (c) the amount of any premiums which may be applicable to him, determined in accordance with Parts 2 and 3 of Appendix 5 (premiums);
- (d) the amount of the support component, which may be applicable to him in accordance with Parts 4 and 5 of Appendix 5 (the components)
- (f) the amount of any transitional addition which may be applicable to him in accordance with Parts 6 and 7 of Appendix 5 (transitional addition).

In Appendix 5

“converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations 2008;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as

receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

### **Polygamous marriages:**

(2) This paragraph applies where:-

(a) an applicant is a member of a polygamous marriage and does not have (alone or jointly with a party to a marriage), an award of universal credit.

(b) The applicable amount for a week of an applicant where this paragraph applies is the aggregate of such of the following amounts as may apply in his case:

(i) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Appendix 5 as if he and that partner were a couple;

(ii) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of Appendix 5 in respect of each of his other partners;

(iii) an amount determined in accordance with paragraph 2 of Appendix 5 (main phase employment and support allowance) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;

(iv) the amount of any premiums which may be applicable to him determined in accordance with Parts 2 and 3 of Appendix 5 (premiums);

(v) the amount of the support component, which may be applicable to him in accordance with Parts 4 and 5 of that Appendix 5 (the components);

(vi) the amount of any transitional addition which may be applicable to him in accordance with Parts 6 and 7 of that Schedule (transitional addition).

### **Applicable amount: persons who have an award of universal credit**

(3) Subject to sub-paragraph (4), in determining the applicable amount for a week of an applicant who is not a pensioner

(a) who has, or

(b) who (jointly with his partner) has,

an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (5).

(4) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if—

(a) one of them is a party to an earlier marriage that still subsists; and

(b) the other party to that earlier marriage is living in the same household.

(5) The adjustment referred to in sub-paragraph (3) is to multiply the maximum amount by 12 and divide the product by 52.

(6) In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012(a).

## Appendix 1- Students

### 1. Interpretation

(1) “academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer;

(2) “access funds” means

(a) grants made under section 68 of the Further and Higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students;

(b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980;

(c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;

(d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009; or

(e) Financial Contingency Funds made available by the Welsh Ministers;

(3) “college of further education” means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992; “contribution” means

(a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or

(b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that

it is reasonable for the following persons to contribute towards the holder's expenses—

- i. the holder of the allowance or bursary;
- ii. the holder's parents;
- iii. the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or
- iv. the holder's spouse or civil partner;

(4) "course of study" means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

(5) "covenant income" means the gross income payable to a full-time student under a Deed of Covenant by his parent;

(6) "education authority" means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, anybody which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

(7) "full-time course of study" means a full-time course of study which

(a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;

(b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out

(i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or

(ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or

(c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—

(i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or

- (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;
- (8) “full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;
- (9) “grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which sub paragraph 52 of Appendix 4 applies;
- (10) “grant income” means
- (i) any income by way of a grant;
  - (ii) any contribution whether or not it is paid;
- (11) “higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;
- (12) “last day of the course” means
- (i) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
  - (ii) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;
- (13) “period of study” means
- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
  - (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
    - (i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
    - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
    - (iii) in the final year of a course of study of more than one year, the period beginning with that year’s start and ending with the last day of the course;
- (14) “periods of experience” means periods of work experience which form part of a sandwich course;
- (15) “qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker’s Allowance Regulations 1996;
- (16) “ sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(8) of

the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

(17) “standard maintenance grant” means

(a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003<sup>7</sup> (“the 2003 Regulations”) for such a student;

(b) except where paragraph (c) applies, in the case of a student residing at his parent’s home, the amount specified in paragraph 3 thereof;

(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;

(d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

(18) “student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking

(a) a course of study at an educational establishment; or

(b) a qualifying course;

(19) “student loan” means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998<sup>8</sup>, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and includes, in Scotland, a young student’s bursary paid under regulation 4(1)(c) of the Students’ Allowances (Scotland) Regulations 2007.

(20) For the purposes of the definition of “full-time student” in sub-paragraph (1), a person must be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course

(a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—

(i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or

(ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;

(b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons

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<sup>7</sup> S.I. 2003/1994; relevant amending instrument is S.I. 2008/1477.

<sup>8</sup> 1998 c.30.

it or is dismissed from it.

(21) For the purposes of paragraph (a) of sub-paragraph (2), the period referred to in that paragraph includes

(a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;

(b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(22) “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

## **2. Students who are excluded from entitlement to a reduction**

(1) The students who are excluded from entitlement to reduction under this scheme are, subject to sub-paragraphs (2) and (6),

- (a) full time students; and
- (b) students who are persons treated as not being in Great Britain.

(2) Sub-paragraph 1 does not apply to a student – ‘

(a) who is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance;

(b) who is a lone parent;

(c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;

(d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;

(e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;

(f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;

(g) who has a partner who is also a full-time student, if he or that partner is

treated as responsible for a child or young person;

(h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland;

(i) who is

(ii) aged under 21 and whose course of study is not a course of higher education,

(iii) aged 21 and attained that age during a course of study which is not a course of higher education, or

(iv) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);

(j) in respect of whom—

(i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;

(ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;

(iii) a payment has been made under or by virtue of regulations made under the Teaching and Higher Education Act 1998 (this only applies to an applicant until the end of the course during which the applicant attained the age of 21);

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986, on account of his disability by reason of deafness.

(3) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

(4) In sub-paragraph (2)(i) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988 c.40.

(5) A full-time student to whom sub-paragraph (2)(i) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

(6) Sub-paragraph (2)(b) does not apply to a full-time student for the period specified in sub-paragraph (7) if—

(a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is

- (i) engaged in caring for another person; or
- (ii) ill;

(b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and

(c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (7).

(7) The period specified for the purposes of sub-paragraph (6) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—

- (a) the day on which he resumes attending or undertaking the course; or
- (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, whichever first occurs.

### **3. Calculation of grant income**

(1) The amount of a student's grant income to be taken into account in assessing his income must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.

(2) There must be excluded from a student's grant income any payment—

- (i) intended to meet tuition fees or examination fees;
- (ii) in respect of the student's disability;
- (iii) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (iv) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (v) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
  - (i) intended to meet the cost of books and equipment;
  - (ii) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (iii) intended for the child care costs of a child dependent; of higher education bursary for care leavers made under Part 3 of the Children Act 1989.

(3) Where a student does not have a student loan and is not treated as possessing such a loan, there must be excluded from the student's grant income

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the costs of

books and equipment, whether or not any such costs are incurred.

(4) There must also be excluded from a student's grant income the grant for dependents known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998<sup>9</sup>.

(5) A student's grant income must be apportioned—

(a) in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;

(b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

(6) Any grant in respect of dependents paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependents under Part 3 of Schedule A2 to the Education (Mandatory Awards) Regulations 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.

(7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependents must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

(8) In the case of a student on a sandwich course, any periods of experience within the period of study must be excluded and the student's grant income must be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

(9) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less the amount of the contribution.

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<sup>9</sup> 1998 c.30.

- (10) The weekly amount of the student's covenant must be determined—
- (a) by dividing the amount of income whichever is reasonable in the circumstances; and
  - (b) by disregarding £5 from the resulting amount.
- (11) For the purposes of sub-paragraph (9), the contribution must be treated as increased by the amount (if any) by which the amount excluded falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).
- (12) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—
- (a) any sums intended for any expenditure specified in paragraph 3(2)(a) to (e) necessary as a result of his attendance on the course must be disregarded;
  - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;
  - (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 3(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
  - (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.
- (13) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with paragraphs (a) to (d) of sub-paragraph (1), except that—
- (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 3(2)(a) to (e); and
  - (b) the amount to be disregarded must be abated by an amount equal to the amount of any sums disregarded under paragraph 3(2)(f) and (g) and (3).
- (14) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income, any amounts intended for any expenditure necessary as a result of his attendance on the course must be disregarded.
- (15) A student loan is to be treated as income.
- (16) In calculating the weekly amount of the loan to be taken into account as income
- (a) In respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with
    - (i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the

first day of the single academic year;

(ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;

(b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period—

(i) beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year, and

(ii) ending with the reduction week, the last day of which coincides with or immediately precedes, the last day of that academic year, but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of the authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" has the same meaning as for the purposes of the Education (Student Support) Regulations 2005;

(c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—

(i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year;

(ii) where the final academic year starts on 1st September, the reduction week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;

(d) in any other case, the loan is to be apportioned equally between the weeks in the period beginning with the earlier of—

(i) the first day of the first reduction week in September; or

(ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of June, and, in all cases, from the weekly amount so apportioned £10 is to be disregarded.

(17) A student is to be treated as possessing a student loan in respect of an academic year where—

(a) a student loan has been made to him in respect of that year; or

(b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

(18) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-paragraph (5)—

(a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—

- (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
- (ii) any contribution whether or not it has been paid to him;

(b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—

- (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
- (ii) no deduction in that loan was made by virtue of the application of a means test.

(19) There must be deducted from the amount of income taken into account under sub-paragraph (4)

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.
- (c) a loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

#### **4. Treatment of payments from access funds**

(1) This paragraph applies to payments from access funds that are not payments to which paragraph 5(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.

(3) Subject to sub-paragraph (4) of this paragraph and appendix 3 paragraph 23 sub paragraph 40

- (a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family, and
- (b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, must be disregarded as income to the extent of £20 per week.

(4) Where a payment from access funds is made—

- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student, that payment must be disregarded as income.

(5) Where the applicant or his partner is a student and, for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution must be disregarded for the purposes of assessing that other partner's income.

(6) Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant or student loan, the amount taken into account must be disregarded in assessing that student's income.

## **5. Income treated as capital**

(1) Any amount by way of a refund of tax deducted from a student's covenant income must be treated as capital.

(2) An amount paid from access funds as a single lump sum must be treated as capital.

(3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, must be disregarded as capital but only for a period of 52 weeks from the date of the payment.

(4) In calculating a student's income the authority must disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

## **Appendix 2 - When entitlement begins and changes of circumstances**

### **1. Date on which entitlement begins**

(1) Subject to paragraph (7), any person by whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.

(2) The authority must make a decision on an application for a reduction under this scheme within 14 days of paragraphs 2, 3 and 5 being satisfied, or as soon as reasonably practicable thereafter.

(3) Where a person is otherwise entitled to a reduction under this scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he is so entitled from that reduction week.

### **2. Making an application**

(1) In the case of—

(a) a couple or (subject to paragraph (b)) members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines; or

(b) in the case of members of a polygamous marriage to whom Part 3 paragraph (10) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

(2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—

(a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(b) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971<sup>10</sup>, the Enduring Powers of Attorney Act 1985<sup>11</sup> or the Mental Capacity Act 2005 or otherwise, that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

(3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person

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<sup>10</sup> 1971 c.27.

<sup>11</sup> 1985 c.29.

who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under this scheme and to receive and deal on his behalf with any sums payable to him.

(4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).

(5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)

- (a) it may at any time revoke the appointment;
- (b) the person appointed may resign his office after having given four weeks' notice in writing to the authority of his intention to do so;
- (c) any such appointment must terminate when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).

(6) Anything required by this scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.

(7) The authority must—

- (a) inform any person making an application of the duty imposed by paragraph 6(1)(a);
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

### **3. Date on which an application is made**

(1) Subject to paragraph (6), the date on which an application is made is—

- (a) in a case where
  - (i) an award of income support, income-based jobseeker's allowance, income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
  - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,

the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

- (b) in a case where
  - (i) an applicant or his partner is a person on income support,

an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,

- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application to the authority is received at the designated office within one month of the date of the change,

the date on which the change takes place

(c) in a case where

(i) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under this scheme, and

(ii) where the applicant makes an application for a reduction under this scheme within one month of the date of the death or the separation,

the date of the death or separation.

(d) except where paragraph (c) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application,

The date of the first notification

(e) in any other case, the date on which the application is received at the designated office.

(2) For the purposes only of sub-paragraph (1)(a) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—

(a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or

(b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days), have been entitled to that allowance.

(3) Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under this scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority is to treat the application as having been made on the day on which the liability for the tax arises.

(4) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under this scheme

for a period beginning not later than the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

#### **4. Back-dating of an application**

(1) Where an applicant

(a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and

(b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with sub-paragraph (2).

(2) That date is the latest of

(a) the first day from which the applicant had continuous good cause;

(b) the day 1 month before the date the application was made;

(c) the day 1 month before the date when the applicant requested that the application should include a past period.

#### **5. Information and evidence**

(1) Subject to sub-paragraph (3), a person who makes an application for a reduction under this scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

(2) This sub-paragraph is satisfied in relation to a person if—

(a) the application is accompanied by—

(i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or

(ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or

(b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by

(i) evidence of the application for a national insurance number to be so allocated; and

(ii) the information or evidence enabling it to be so allocated.

- (3) Sub-paragraph (2) does not apply
- (a) in the case of a child or young person in respect of whom an application for a reduction is made;
  - (b) to a person who
    - (i) is a person treated as not being in Great Britain for the purposes of this scheme<sup>12</sup>;
    - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
    - (iii) has not previously been allocated a national insurance number.
- (4) Subject to sub-paragraph (6), a person who makes an application, or a person to whom a reduction under this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by the authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under this scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- (5) Nothing in this paragraph requires a person to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- (6) Where a request is made under sub-paragraph (4), the authority must—
- (a) inform the applicant or the person to whom a reduction under this scheme has been awarded of his duty under paragraph 7 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
  - (b) without prejudice to the extent of the duty owed under paragraph 6, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.
- (7) This sub-paragraph applies to any of the following payments—
- (a) a payment which is
    - (i) disregarded under Part 3 paragraph 14(4) or Appendix 4
    - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the London Bombings Relief Charitable Fund; the London Emergency Trust, the We Love Manchester Emergency fund, the Windrush Compensation scheme, the National Emergencies trust or an approved blood scheme.
      - (aa) a Grenfell Tower support payment
    - (iii) a payment which is disregarded under paragraph 27 of Appendix 4

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<sup>12</sup> As to which, see paragraph 11.

(payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006).

## **6. Amendment and withdrawal of application**

(1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office. The application amended is to be treated as if it had been amended in the first instance.

(2) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it. Any notice of withdrawal given has effect when it is received.

## **7. Duty to notify changes of circumstances**

(1) Subject to sub-paragraph (3), the applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—

(a) between the making of an application and a decision being made on it, or

(b) after the decision is made (where the decision is that the applicant is entitled to a reduction under this scheme) including at any time while the applicant is in receipt of such a reduction.

(2) The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under this scheme (a “relevant change of circumstances”) by giving notice to the authority—

(a) in writing; or

(b) by any other means which the authority agrees to accept in any particular case, within a period of 1 calendar month beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

(3) The duty imposed on a person by sub-paragraph (1) does not extend to notifying—

(a) changes in the amount of council tax payable to the authority;

(b) changes in the age of the applicant or that of any member of his family;

(c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under this scheme to which he is entitled, other than the cessation of that entitlement to the benefit.

(4) For the purposes of sub-paragraph (3)(c) “relevant benefit” means income support, an income-based jobseeker’s allowance or an income-related employment and support allowance or maximum universal credit.

(5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.

## **8. Date on which change of circumstances is to take effect**

(1) A change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.

(2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

(3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.

(4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under section 11 or 11A of that Act<sup>13</sup> (discounts), it takes effect from the day on which the change in amount has effect.

(5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.

(6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.

(7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (3) to (6) above refers, or, where more than one day is concerned, from the earlier day.

(8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

(9) Without prejudice to sub-paragraph (8), where the change of

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<sup>13</sup> Section 11A was inserted by section 75(1) of the Local Government Act 2003 (c.26).

circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timorously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

(10) Where the applicant fails to comply with paragraph 6 sub paragraph 2 and the new decision is advantageous to the applicant, the date of the notification of the change in circumstances shall be treated as the date on which the change of circumstances occurred.

## **9. Correction of accidental errors**

(1) Accidental errors in a relevant decision, or a revised decision, or the record of such a decision, may be corrected by the authority at any time.

(2) A correction made to a relevant decision, or a revised decision, or the record of such a decision, shall be deemed to be part of the decision, or of that record, and the authority shall give a written notice of the correction as soon as practicable to the applicant.

(3) Any correction resulting in a reduction of an award that is as a result of Local Authority error will be deemed as non recoverable and will be met by Section 13a (1)(c) of the 1992 Act

## **10. Notification of decision**

(1) The authority must notify in writing any person affected by a decision made by it under this scheme—

(a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;

(b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

(2) Where the decision is to award a reduction the notification under sub-paragraph (1) must include a statement—

(a) informing the person affected of the duty to notify the authority of any change of circumstance;

(b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and

(c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.

(3) Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.

(4) In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in this scheme relating to the procedure for making an appeal.

(5) A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.

(6) The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.

(7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under this scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).

(8) This sub-paragraph applies to—

(a) the applicant;

(b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—

(c) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(i) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

(d) a person appointed by the authority under paragraph 3(3).

## **11. Payment where there is joint and several liability**

(1) Where—

(a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a financial year;

(b) the person entitled to the reduction is jointly and severally liable for the council tax; and

(c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers would be inappropriate, it may make a payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

(2) Subject to sub-paragraph (3), any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.

(3) Where a person other than the person who is entitled to the reduction under this scheme made the application for the reduction and that first person is a person acting pursuant to an appointment under paragraph 2(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 2(5), the amount of the reduction may be paid to that person.

## 12. Conditions for the use of electronic communication

(1) The authority may use an electronic communication in connection with applications for, and awards of, reductions under this scheme.

(2) A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any application or notice delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the authority any information.

(5) The third condition is that any information sent by means of an electronic communication is in a form supplied for the purposes of this Part of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.

(7) Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.

(8) In this “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part of this Schedule.

(9) The authority may use intermediaries in connection with

- (a) the delivery of any information by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means, and may require other persons to use intermediaries in connection with those matters.

(10) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of this scheme, on the day the conditions imposed—

- (a) by this Part; and
- (b) by or under an enactment, are satisfied.

(11) The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (10).

(12) Information must not be taken to have been delivered to an official

computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

(13) If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

(1) the sender of any information delivered by means of an electronic communication to an official computer system; or

(2) the recipient of any such information delivered by means of an electronic communication from an official computer system, the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

(14) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this must be presumed to have been the case where—

(a) any such information has been delivered to the authority, if the delivery of that information has been recorded on an official computer system; or

(b) any such information has been delivered by the authority, if the delivery of that information has been recorded on an official computer system.

(15) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this must be presumed not to be the case, if that information delivered to the authority has not been recorded on an official computer system.

(16) If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt must be presumed to be that recorded on an official computer system.

(17) If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content must be presumed to be that recorded on an official computer system.

## Appendix 3 - Glossary and definitions

### 1. Glossary

(1) In this scheme -

- “the 1992 Act” means the Local Government Finance Act 1992;
- the treatment of benefits within this scheme only applies to those specifically named benefits which are issued in the United Kingdom and do not include any other payments, including those received from outside the United Kingdom, which may be analogous to those benefits;
- this scheme may be also referred to by the authority as Council Tax Discount or Council Tax Reduction Discount or a variation on these;
- “information” includes an application, certificate, notice or other evidence;
- “official computer system” means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.
- “adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996<sup>14</sup>;
- “an AFIP” means an armed forces independence payment payable in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004<sup>15</sup>;
- “applicant” means a person who has made an application;
- “application” means an application for a reduction under this scheme;
- “approved blood scheme” means a scheme established or approved by the Secretary of State, or a trust established with funds provided by the secretary of State, for the purpose of providing compensation in respect of

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<sup>14</sup> 1996 c.18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c.22) and amended by the Work and Families Act 2006 (c.18), Schedule 1, paragraphs 33 and 34.

<sup>15</sup> 2004 c.32.

a person having been infected from contaminated blood products.

- “assessment period” means such period as is set out in paragraph 13 Part 3 over which income falls to be calculated;
- “attendance allowance” means—
  - (i) an attendance allowance under Part 3 of the SSCB<sup>16</sup>;
  - (ii) an increase of disablement pension under section 104 or 105 of that Act;
  - (iii) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983<sup>17</sup> or any analogous payment; or
  - (iv) any payment based on need for attendance which is paid as part of a war disablement pension;
- “the authority” means Luton Borough Council, whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;
- basic rate” has the meaning given by the Income Tax Act 2007<sup>18</sup>;
- “the benefit Acts” means the SSCBA, the Jobseekers Act 1995<sup>19</sup>, the State Pension Credit Act 2002<sup>20</sup> and the Welfare Reform Act 2007<sup>21</sup>;
- “care home” has the meaning given by section 3 of the Care Standards Act 2000<sup>22</sup> and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001<sup>23</sup> and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003<sup>24</sup> or a residential care home within the meaning of Article 10 of that Order;
- “the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;
- “child” means a person under the age of 16;
- “child benefit” has the meaning given by section 141 of the SSCBA<sup>25</sup>;

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<sup>16</sup> 1992 c.4. See sections 64 to 67 of that Act in relation to attendance allowance; relevant amendments are referenced elsewhere in these Regulations.

<sup>17</sup> S.I. 1983/686; relevant amending instruments are S.I. 1984/1675, 2001/420.

<sup>18</sup> 2007 c.3. Section 989 defines basic rate by reference to section 6(2) of that Act. Section 6(2) was amended by section 5 of the Finance Act 2008 (c.9) and section 6 of, and paragraphs 1 and 2 of Schedule 2 to, the Finance Act 2009 (c.10).

<sup>19</sup> 1995 c.18.

<sup>20</sup> 2002 c.16

<sup>21</sup> 2007 c.5.

<sup>22</sup> 2000 c.14. Section 3 was amended by paragraphs 1 and 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).

<sup>23</sup> 2001 asp 8.

<sup>24</sup> S.I. 2003/431 (N.I. 9).

<sup>25</sup> Section 141 was amended by section 1 of the Child Benefit Act 2005 (c.6).

- “child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002<sup>26</sup>;
- “close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that couple;
- “concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002<sup>27</sup> are charged;
- “contributory employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act 2007(**d**) as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012(**e**) that remove references to an income-related allowance and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;”;
- “council tax benefit” means council tax benefit under Part 7 of the SSCBA;
- “couple” has the meaning given by paragraph 3;
- “designated office” means the office of the authority designated by it for the receipt of applications—
  - (i) by notice upon or with a form supplied by it for the purpose of making an application; or
  - (ii) by reference upon or with such a form to some other document available from it and sent by electronic means or otherwise on application and without charge; or
  - (iii) by any combination of the provisions set out in paragraphs (a) and (b);
- “disability living allowance” means a disability living allowance under section 71 of the SSCBA<sup>28</sup>;
- “Disabled or long term sick” means that the applicant or their partner are —
  - (a) Blind or have recently regained their sight ; or
  - (b) are in receipt of any of;
    - (i) disability living allowance; or
    - (ii) any benefit which is treated as attendance allowance; or
    - (iii) war pensioner's mobility supplement; or
    - (iv) the disability element or severe disability element of working tax

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<sup>26</sup> 2002 c.21; section 8 is repealed by the Welfare Reform Act 2012 (c.5), Schedule 14, Part 1 (not yet in force).

<sup>27</sup> 2002 c.21.

<sup>28</sup> 1992 c.4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c.30) and repealed by section 90 of the Welfare Reform Act 2012 (not yet in force).

credit; or

(v) severe disablement allowance; or

(vi) incapacity benefit payable at the long-term rate, or if they are terminally ill the short-term higher rate or;

(vii) in receipt of PIP.

In the case of items (v) and (vi) the applicant or any partner must be 'in receipt' of that benefit and not merely entitled to it. In certain circumstances the premium can continue if one of the qualifying benefits in (i) or (ii) is lost due to a period in hospital; or

(c) are treated as long-term sick in the way described later in this paragraph ; or

(d) have an invalid vehicle supplied by the NHS or get DWP payments for car running costs.

- “earnings” has the meaning given by paragraphs 13, 14, 15 and 16 as the case may be;
- “the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;
- “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000<sup>29</sup>;
- “employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA<sup>30</sup> and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;
- “the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995<sup>31</sup> known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist the applicants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);
- “employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999<sup>32</sup> and an “employment zone programme” means a programme established for such an area or areas designed to assist the applicants for a jobseeker’s allowance to obtain sustainable employment;
- “enactment” includes an enactment comprised in, or in an instrument

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<sup>29</sup> 2002 c.7; that definition was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.

<sup>30</sup> Section 2(1)(a) was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraphs 169 and 171 (c.1).

<sup>31</sup> Section 17A was inserted by the Welfare Reform Act 2009 (c.24), section 1 and amended by the Welfare Reform Act 2012 (c.5), Schedule 7, paragraphs 1 and 4, and Schedule 14, Parts 1 and 3 (not yet in force). The section is repealed by Part 4 of Schedule 14 to that Act (not yet in force).

<sup>32</sup> 1999 c.30.

made under, an Act of the Scottish Parliament;

- “extended reduction” means a reduction under this scheme for which a person is eligible under Part 3, 21;
- “extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance Part 3, 21;
- “extended reduction (qualifying contributory benefits)” means a reduction under this scheme for which a person is eligible in accordance with Part 3, paragraph 21;
- “family” has the meaning given by paragraph 5;
- “the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992;
- A 'gap' means a period during which the person either is capable of work or is disqualified from incapacity benefit. After the qualifying period is completed, there are further 'linking rules';
- “the Grenfell Tower charitable funds” means the funds identified in the document entitled “Charity Commission for England and Wales – Grenfell Tower charitable funds update – 29th January 2019”
- “the Grenfell Tower Residents’ Discretionary Fund” means the £5 million fund announced on 16th June 2017 and administered by Westminster City Council for the benefit of households affected by the fire at Grenfell Tower on 14th June 2017;
- “Grenfell Tower support payment” means a payment made to a person because that person was affected by the fire on the 14<sup>th</sup> June 2017 at Grenfell Tower, or a payment to the personal representative of such a person –
  - (a) from the £5 million fund announced on the 16 June 2017 for the benefit of certain persons affected by fire on the 14<sup>th</sup> June as Grenfell Tower and known as the Grenfell Tower residents’ discretionary fund;
  - (b) by the Royal Borough of Kensington and Chelsea; or
  - (c) by a registered charity;
- “guaranteed pension credit” is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002;
- “a guaranteed income payment” means a payment made under article 15(1)(c) (injury benefits) or 29(1)(a) (death benefits) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011<sup>33</sup>;
- “housing benefit” means housing benefit under Part 7 of the SSCBA;

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<sup>33</sup> S.I. 2011/517.

- “Incapable of work” means the same here as it does for incapacity benefit - and this decision is always made by the Job Centre Plus office.
- “an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the meanings given by section 1(4) of the Jobseekers Act 1995<sup>34</sup>;
- “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007;
- “independent hospital”—
  - (a) in England means a hospital as defined by section 275 of the National Health Service Act 2006<sup>35</sup> that is not a health service hospital as defined by that section;
  - (b) in Wales has the meaning given by section 2 of the Care Standards Act 2000<sup>36</sup>; and
  - (c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978<sup>37</sup>;
- “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;
- “invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;
- ‘Linking rules’ means that once a person has completed the qualifying period, there are linking rules as follows:
  - the applicant does not qualify for a disability premium during a gap;
  - after a gap of eight weeks or less, the person qualifies for a disability premium straight away;
  - after a gap of more than eight weeks, the person does not qualify for a disability premium until they have completed a fresh qualifying period.
 Breaks in HB/CTR during the qualifying period or after it do not affect this rule.
- “the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072), and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependents of victims) of the terrorist attacks carried out in London on 7th July 2005;
- “the London Emergencies Trust” means the company of that name

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<sup>34</sup> 1995 c.18. Section 1(4) was amended by the Welfare Reform and Pensions Act 1999, Schedule 7, paragraphs 1 and 2(1) and (4); the Civil Partnership Act 2004 (c33); section 4 of the Welfare Reform Act 2009 (c.24), and is repealed by the Welfare Reform Act 2012, Schedule 14, Part 1 (not yet in force).

<sup>35</sup> 2006 c.41. The definition of “health service hospital” has been amended by the Health and Social Care Act 2012 (c.7), Schedule 4, paragraph 138 (not yet in force).

<sup>36</sup> 2000 c.14; section 2 was amended by the Health and Social Care Act 2008 (c.14), Schedule 5, paragraphs 1 and 3.

<sup>37</sup> 1978 c.29; section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

(number 09928465) incorporated on the 23<sup>rd</sup> December 2015 and the registered charity of that name (number 1172307) established on 28 March 2017

- “lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;
- 'Long-term sick'. The applicant (but not the applicant's partner) counts as long-term sick and qualifies for the disability premium if he or she:
  - (a) is incapable of work; and
  - (b) has been incapable of work for a 'qualifying period' of:
    - 28 weeks (196 days) if they are terminally ill, or
    - 52 weeks (364 days) in any other case.
- “the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from hemophilia;
- “the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from hemophilia and other beneficiaries;
- “the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Hemophilia Society, for the relief of poverty or distress among those suffering from hemophilia;
- “main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007<sup>38</sup> or the applicant is a member of the work-related activity group ;
- “maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996<sup>39</sup>;
- “maximum council tax reduction amount” means the amount determined in accordance with Part 1 paragraph 5 and Part 2 paragraph 9;
- “maximum universal credit” for the purposes of these rules is where the monthly award of Universal Credit that a customer receives is the same amount as the monthly calculation of their maximum possible entitlement under Universal credit before any earnings, non-earned income and non-dependent deductions or sanctions are deducted.
- “member of a couple” means a member of a married or unmarried couple;

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<sup>38</sup> Section 2(1)(b) is amended by the Welfare Reform Act 2012, Schedule 23, paragraph 24 (not yet in force); section 4 is repealed by Part 1 of Schedule 14 to that Act (not yet in force).

<sup>39</sup> 1996 c.18.

- member of the work-related activity group” means a person who has or is treated as having limited capability for work under either—
  - (a) Part 5 of the Employment and Support Allowance Regulations 2008 other than by virtue of regulation 30 of those Regulations; or
  - (b) Part 4 of the Employment and Support Regulations 2013 other than by virtue of regulation 26 of the those Regulations;”MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;
- “mover” means an applicant who changes the dwelling in which the applicant is resident, and in respect of which the applicant is liable to pay council tax, from a dwelling in the area of the authority to a dwelling in the area of a second authority;
- “the National Emergencies Trust” means the registered charity of that name (number 1182809) established on 28<sup>th</sup> March 2019;
- “net earnings” means such earnings as are calculated in accordance Part 3, paragraph 12 and Appendix 3 paragraph 13, as the case may be;
- “net profit” means such profit as is calculated in accordance with Part 3, paragraph 13 and Appendix 3 paragraphs 14-16 ;
- “new dwelling” means, for the purposes of the definition of “second authority” the dwelling to which an applicant has moved, or is about to move, in which the applicant will be resident;
- “non-dependent” has the meaning given by appendix 3, paragraph 8;
- “occasional assistance” means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of—
  - (a) meeting, or helping to meet an immediate short-term need—
    - (i) arising out of an exceptional event or exceptional circumstances, or
    - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
  - (b) enabling qualifying individuals to establish or maintain a settled home, and—
    - (i) “local authority” has the meaning given by section 270(1) of the Local Government Act 1972<sup>40</sup>; and
    - (ii) “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;

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<sup>40</sup> 1972 c. 70. The definition of local authority was amended by section 102 of, and paragraph 8 of Schedule 16 and Schedule

and “local authority” means a local authority in England within the meaning of the Local Government Act 1972<sup>41</sup>;

- “occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;
- “occupational pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993<sup>42</sup>;
- “parental bereavement leave” means leave under section 80EA of the Employment Rights Act 1996(2);
- “partner”, in relation to a person, means—
  - (a) where that person is a member of a couple, the other member of that couple;
  - (b) subject to paragraph (c), where that person is polygamously married to two or more members of his household, any such member to whom he is married; or
  - (c) where that person is polygamously married and has an award of universal credit with the other party to the earliest marriage that still subsists, that other party to the earliest marriage;
- “paternity leave” means a period of absence from work on paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996
- “pension fund holder” means with respect to a personal pension scheme or an occupational pension scheme, the trustees, managers or scheme administrators, as the case may be, of the scheme concerned;
- “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995<sup>43</sup>;
- “pensioner” has the meaning given by Appendix 3, paragraph 2.
- “person on income support” means a person in receipt of income support;
- “person treated as not being in Great Britain” has the meaning given Appendix 3, paragraph 11;
- “person who is not a pensioner” has the meaning given by Appendix 3, paragraph 2.
- “person in receipt of any benefit” is so 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.

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<sup>41</sup> 1972 c.70. See section 270(1) of that Act for the definition of “local authority”; a relevant amendment was made to that definition by the Local Government Act 1985 (c.51), Schedule 17

<sup>42</sup> 1993 c.48. The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by S.I. 2007/3014

<sup>43</sup> 1995 c.26; paragraph 1 has been amended by the State Pension Credit Act 2002 (c.16), Schedule 2, paragraph 39; the Welfare Reform Act 2007, Schedule 3, paragraph 13; the Pensions Act 2007 (c.22), Schedule 3, paragraph 4; and section 1 of the Pensions Act 2011 (c.19).

- “personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012<sup>44</sup>;
- “personal pension scheme” means—
  - (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993<sup>45</sup>;
  - (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988<sup>46</sup> or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004<sup>47</sup>;
  - (c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;
- “policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;
- “polygamous marriage” means any marriage to which Appendix 3, paragraph 4; applies;
- “qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002<sup>48</sup>)—
  - (a) in the case of a woman, pensionable age; or
  - (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;
- “qualifying contributory benefit” means—
  - (a) severe disablement allowance;
  - (b) incapacity benefit;
  - (c) contributory employment and support allowance;
- “qualifying income-related benefit” means—
  - (a) income support;
  - (b) income-based jobseeker’s allowance;
  - (c) income-related employment and support allowance;
- ‘Qualifying period’ need not be continuous. Any number of periods can be added together so long as the gap between each is eight weeks or less (104 weeks or less, in the case of a ‘welfare to work beneficiary’).
- “qualifying person” means—

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<sup>44</sup> 2012 c.5.

<sup>45</sup> 1993 c.48; the definition of “personal pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by the Finance Act 2007 (c.11), Schedule 20, paragraph 23 and Schedule 27, Part 3.

<sup>46</sup> 1988 c.1.

<sup>47</sup> 2004 c.12.

<sup>48</sup> 2002 c.16.

(a) a person in respect of whom a Grenfell Tower support payment has been made or payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Windrush Compensation Scheme, the National Emergencies Trust or the London Bombings Relief Charitable Fund;

- “reduction week” means a period of seven consecutive days beginning with a Monday and ending with a Sunday;
- “relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece; “relevant week”, in relation to any particular day, means the week within which the day in question falls;
- “remunerative work” has the meaning given by Appendix 3, paragraph 9
- “savings credit” is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002<sup>49</sup>;
- “the Scottish Infected Blood Scheme” means the scheme of that name administered by the Common Services Agency (constituted under section 10 of the National Health Service (Scotland) Act 1978(b))
- “second authority” means the authority to which a mover is liable to make payments for the new dwelling;
- “self-employed earner” is to be construed in accordance with section 2(1)(b) of the SSCBA; “self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—
  - (a) an employment zone programme;
  - (b) a programme provided by or under arrangements made pursuant to section 2 of the Employment and Training Act 1973<sup>50</sup> (functions of the Secretary of State) or
  - (c) the Employment, Skills and Enterprise Scheme;
- “shared parental leave” means leave under section 75E or 75G of the Employment Rights Act 1996;
- “single applicant” means an applicant who neither has a partner nor is a lone parent;
- “the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;

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<sup>49</sup> 2002 c.16. Section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24, paragraph 140 and S.I. 2002/1792.

<sup>50</sup> 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c.19) and repealed in part by the Employment Act 1989 (c.38), Schedule 7, Part 1.

- “sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993<sup>51</sup> out of sums allocated to it for distribution under that section;
- “the SSCBA” means the Social Security Contributions and Benefits Act 1992<sup>52</sup>;
- “state pension credit” means state pension credit under the State Pension Credit Act 2002<sup>53</sup>; “student” has the meaning given by paragraph 1;
- “statutory parental bereavement pay” means a payment to which a person is entitled in accordance with section 171ZZ6 of the Social Security Contribution and Benefits Act 1992;
- “tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;
- “training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—
  - (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Chief Executive of Skills Funding or the Welsh Ministers;
  - (b) to a person for his maintenance or in respect of a member of his family; and
  - (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers, but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973<sup>54</sup>, or is training as a teacher;
- “the Trusts” (except where the context otherwise requires) means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust and “Trustees” is to be construed accordingly;
- “universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012<sup>55</sup>;
- “voluntary organisation” means a body, other than a public or local

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<sup>51</sup> 1993 c.39; subsection (2) was amended by S.I. 1996/3095, 1999/1663.

<sup>52</sup> 1992 c.4.

<sup>53</sup> 2002 c.16.

<sup>54</sup> 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25 and amended by the Employment Act 1989 (c.38), Schedule 7, Part 1.

<sup>55</sup> 2012 c.5.

authority, the activities of which are carried on otherwise than for profit;

- “war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003<sup>56</sup>;
- “war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;
- “war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
- “war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
- “water charges” means
  - (a) As respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991<sup>57</sup>,
  - (b) As respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002(a),in so far as such charges are in respect of the dwelling which a person occupies as his home
- “the We Love Manchester Emergency Fund” means the registered charity of that name (number 1173260) established on the 30<sup>th</sup> May 2017
- “the Windrush Compensation Scheme” means—
  - (a) the scheme of that name operated by the Secretary of State for the purpose of compensating individuals who have suffered loss in connection with being unable to demonstrate their lawful status in the United Kingdom; and
  - (b) the policy entitled “Windrush Scheme: Support in urgent and exceptional circumstances” which was operated by the Secretary of State for the purpose of compensating individuals who, for urgent and exceptional reasons, required support in advance of the scheme referred to in paragraph (a) of this definition becoming operational;”;
- “working tax credit” means in so far as such charges are in respect of the dwelling which a person occupies as his home; a working tax credit under section 10 of the Tax Credits Act 2002<sup>58</sup>;
- “young person” means a person who falls within the definition of

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<sup>56</sup> 2003 c.1; subsection (2) was inserted by the Finance Act 2005 (c.7), section 19. (

<sup>58</sup> 2002 c.21.

qualifying young person in section 142 of the SSCBA<sup>59</sup>;

(2) in this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny;

(3) for the purpose of this scheme, a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to him and on any day -

(a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995<sup>60</sup> (circumstances in which a jobseeker's allowance is not payable);

(b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or

(c) in respect of which an income-based jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001<sup>61</sup> (loss of benefit provisions).

(4) for the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day -

(a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act 2007<sup>62</sup> (disqualification); or

(b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act (employment and support allowance: supplementary provisions) and which falls immediately before a day in

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<sup>59</sup> Section 142 was amended by section 1 of the Child Benefit Act 2005 (c.6).

<sup>60</sup> 1995 c.18; section 19 (together with sections 19A to 19C), has been substituted by section 46 of the Welfare Reform Act 2012 (c.5) but that amendment is not yet in force (sections 19A to 19C are however); section 17A has been repealed by Part 4 of Schedule 14 to that Act although that provision is not yet in force. In the meantime amendments have been made to section 17A by sections 48 and 59 of, and Schedules 7 and 14 to, the 2012 Act.

<sup>61</sup> 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, 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 (of which those made by sections 9, 31 and Schedule 7 are not yet in force); 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, none of which are yet in force. Section 8 has been repealed by section 147 of, and Part 1 of Schedule 14, to the Welfare Reform Act 2012, but that repeal is not yet in force. Amendments have also been made by sections 1, 24, and 58 of, and Part 1 of Schedule 4 and Part 3 of Schedule 7 to, the Welfare Reform Act 2009; sections 31, 48, 113 and 147 of, and paragraphs 56 and 60 of Schedule 2, paragraph 12 of Schedule 7 and Part 12 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force. Section 9 was amended by section 14 of, and Part 3 of Schedule 2 to, the State Pension Credit Act 2002; sections 28 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007; sections 9 and 58 of, and Part 1 of Schedule 7 to, the Welfare Reform Act 2009, none of which are in force; sections 31, 113 and 147 of, and paragraphs 56 and 61 of Schedule 2 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force.

<sup>62</sup> 2007 c.5

respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act

(5) for the purposes of this scheme, two persons must be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them;

(6) in this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002<sup>63</sup> (small amounts of state pension credit).

(7) In these Rules, references to a person in class A, B or C (as the case may be) is a reference to class A, B or C described in Rules 13, 14 and 15.

(8) References in these Rules to an applicant participating as a service user are to

(a) a person who is being consulted by or on behalf of—

(i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services, in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or

(b) the carer of a person consulted as described in sub-paragraph.

## **2. Application of scheme**

This scheme applies to persons who are not pensioners.

In this scheme a person is a “person who is not a pensioner” if—

(a) he has not attained the qualifying age for state pension credit; or

(b) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is—

(i) a person on income support, on an income-based jobseeker’s allowance or on an income-related employment and support allowance, or

(ii) a person with an award of universal credit.

## **3. Meaning of “couple”**

(1) In this scheme “couple” means—

(a) a man and woman who are married to, or in a civil partnership with each other and are members of the same household;

(b) a man and woman who are not married to, or in a civil partnership with each other but are living together as husband and wife;

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<sup>63</sup> S.I. 2002/1792.

- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
  - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (2) Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

#### **4. Polygamous marriages**

- (1) This paragraph applies to any case where
- (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
  - (b) either party to the marriage has for the time being any spouse additional to the other party.
- (2) For the purposes of paragraph 3 (meaning of “couple”) neither party to the marriage is to be taken to be a member of a couple.

#### **5. Meaning of “family”**

- (1) In this scheme “family” means—
- (a) a couple;
  - (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
  - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.
- (2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA<sup>64</sup> applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).
- (3) The references to a young person in sub-paragraph (1)(b) and (c) do not include a young person who is—
- (a) on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, or has an award of universal credit;
  - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000<sup>65</sup> (exclusion from benefits) applies; or
  - (c) entitled to an award of universal credit.

#### **6. Circumstances in which a person is to be treated as responsible or not responsible for another**

- (1) A person is to be treated as responsible for a child or young person who

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<sup>64</sup> Section 145A inserted by the Tax Credits Act 2002 (c.21), section 55(1).

<sup>65</sup> 2000 c.35.

is normally living with him, including a child or young person to whom paragraph 6(2) applies.

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person must be treated for the purposes of sub-paragraph (1) as normally living with

- (a) the person who is receiving child benefit in respect of that child or young person, or
- (b) if there is no such person—
  - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
  - (ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of this scheme a child or young person is the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this paragraph is to be treated as not so responsible.

## 7. Households

(1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of paragraph 7) as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

(2) A child or young person is not to be treated as a member of the applicant's household where he is—

- (a) placed with the applicant or his partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989<sup>66</sup> or by a voluntary organisation under section 59(1)(a) of that Act or section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained) (c)
- (b) placed with the applicant or his partner prior to adoption; or
- (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002<sup>67</sup> or the Adoption Agencies (Scotland) Regulations 2009<sup>68</sup> or the Adoption (Northern Ireland) Order 1987<sup>69</sup>.

(3) Subject to sub-paragraph (4), sub-paragraph (1) does not apply to a child or young person who is not living with the applicant and who

- (a) is being looked after by a local authority under a relevant enactment; or
- (b) has been placed with a person other than the applicant prior to

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<sup>66</sup> 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but not yet in force in Wales. Section 59(1)(a) was amended by section 49 of the Children Act 2004 (c.31) and paragraph 2 of Schedule 1 to the Children and Young Persons Act 2008.

<sup>67</sup> 2002 c.38.

<sup>68</sup> S.I. 2009/154.

<sup>69</sup> S.I. 1987/2203 (N.I. 22).

adoption; or

(c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

(4) The authority must treat a child or young person to whom sub-paragraph (3)(a) applies as being a member of the applicant's household in any reduction week where

(a) that child or young person lives with the applicant for part or all of that reduction week;

(b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this paragraph "relevant enactment" means

(a) the Army Act 1955<sup>70</sup>;

(b) the Air Force Act 1955<sup>71</sup>;

(c) the Naval Discipline Act 1957<sup>72</sup>;

(d) the Matrimonial Proceedings (Children) Act 1958<sup>73</sup>;

(e) the Social Work (Scotland) Act 1968<sup>74</sup>;

(f) the Family Law Reform Act 1969<sup>75</sup>;

(g) the Children and Young Persons Act 1969<sup>76</sup>;

(h) the Matrimonial Causes Act 1973<sup>77</sup>;

(i) the Children Act 1975<sup>78</sup>;

(j) the Domestic Proceedings and Magistrates' Courts Act 1978<sup>79</sup>;

(k) the Adoption and Children (Scotland) Act 2007<sup>80</sup>;

(l) the Family Law Act 1986<sup>81</sup>;

(m) the Children Act 1989;

(n) the Children (Scotland) Act 1995<sup>82</sup>; and

(o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>83</sup>.

## 8. Non-dependents

(1) In this scheme, "non-dependent" means any person, except someone to whom sub-paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.

(2) This paragraph applies to

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<sup>70</sup> 1955 c.18.

<sup>71</sup> 1955 c.19.

<sup>72</sup> 1957 c.53.

<sup>73</sup> 1958 c.40.

<sup>74</sup> 1968 c.49.

<sup>75</sup> 1969 c.46.

<sup>76</sup> 1969 c.54.

<sup>77</sup> 1973 c.18.

<sup>78</sup> 1975 c.72; this Act was repealed in respect of England and Wales by Schedule 15 to the Children Act 1989 (c.41). It continues to have effect in Scotland.

<sup>79</sup> 1978 c.22.

<sup>80</sup> 2007 asp 4.

<sup>81</sup> 1986 c.55.

<sup>82</sup> 1995 c.36.

<sup>83</sup> 2012 c.10.

- (a) any member of the applicant's family;
- (b) if the applicant is polygamously married
  - (i) where the applicant has (alone or jointly with his partner) an award of universal credit, any—
    - (aa) party to such a marriage other than the applicant's partner; and
    - (bb) any child or young person who is a member of his household and for whom he or his partner or another party to the polygamous marriage is responsible; or
  - (ii) in any other case, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- (c) a child or young person who is living with the applicant but who is not a member of his household by virtue of sub paragraph 6
- (d) subject to sub-paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act (persons liable to pay council tax);
- (e) subject to sub-paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
- (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

(3) Excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following paragraphs applies is a non-dependent

- (a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either—
  - (i) that person is a close relative of his or his partner; or
  - (ii) the tenancy or other agreement between them is other than on a commercial basis;
- (b) a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of a council tax reduction scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;
- (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependent of one or more of the other residents in that dwelling who are so liable for the tax, unless the change giving rise to the new liability was not made to take advantage of a council tax reduction scheme.

(4) A non-dependent deduction is taken from the calculated Council Tax Liability before the income band percentage reduction is applied as follows-

- (a) Subject to the following provisions of this paragraph, the non-dependent deductions referred to in paragraph 4 are:

(i) in respect of a non-dependent aged 18 or over in remunerative work, £12.45;

(ii) in respect of a non-dependent aged 18 or over to whom paragraph (i) does not apply, £4.05

(b) In the case of a non-dependent aged 18 or over to whom subparagraph (a)(i) applies, where it is shown to the appropriate authority that his normal gross weekly income is-

(i) less than £217.00, the deduction to be made under this paragraph is that specified in subparagraph (a)(ii)

(ii) not less than £217.00 but less than £377.00, the deduction to be made under this paragraph is £8.30;

(iii) not less than £377.00 but less than £469.00, the deduction to be made under this paragraph is £10.40;

(5) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage (other than where there is an award of universal credit) and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.

(6) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(7) Where in respect of a day

(a) a person is a resident in a dwelling but is not himself liable for Council tax in respect of that dwelling and that day;

(b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and

(c) the person to whom paragraph (a) refers is a non-dependent of two or more of the liable persons, the deduction in respect of that non-dependent must be apportioned equally between those liable persons.

(8) No deduction is to be made in respect of any non-dependents occupying an applicant's dwelling if the applicant or his partner is

(a) blind or treated as blind by virtue of Appendix 5 paragraph 9 (additional condition for the disability premium); or

(b) receiving in respect of himself

(i) attendance allowance, or would be receiving that allowance but for-

(aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or

(bb) an abatement as a result of hospitalisation; or

(ii) the care component of the disability living allowance, or would be receiving that component but for-

(aa) a suspension of benefit in accordance with regulations under

section 113(2) of the SSCBA; or

(bb) an abatement as a result of hospitalisation; or

(iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or

(iv) an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

(9) No deduction is to be made in respect of a non-dependent if

(a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or

(b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or

(c) he is a full-time student within the meaning of Appendix 1 or

(d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes-

(i) "patient" has the meaning given in Appendix 3 paragraph 12(6), and

(ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(10) No deduction is to be made in respect of a non-dependent

(a) who is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;

(b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependent who is a student to whom paragraph 4 of that Schedule refers; or

(c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income

(d) for the purposes of sub-paragraph 8(c), "earned income" has the meaning given in regulation 52 of the Universal Credit Regulations 2013

(11) In the application of sub-paragraph (2) there is to be disregarded from the non-dependent's weekly gross income

(a) any attendance allowance, disability living allowance, personal independence payment or an AFIP received by him;

(b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We love Manchester Emergency Fund, , the Windrush Compensation Scheme the National emergencies Trust or the Independent Living Fund (2006) which, had his income fallen to be calculated under part 3 paragraph 15 (calculation of income other than earnings: would have been disregarded under paragraph 14 of part 3 and

(ba) any Grenfell Tower support payment which is paid as income in kind (see sub-paragraph (28(1)));

(c) any payment which, had his income fallen to be calculated under part 3 paragraph 15, would have been disregarded under paragraph 14 of part 3 (payments made under certain trusts and certain other payments).

(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mothers pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.

## **9. Remunerative work**

(1) Subject to the following provisions of this paragraph, a person must be treated for the purposes of this scheme as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard must be had to the average of hours worked over—

(a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);

(b) in any other case, the period of 5 weeks immediately prior to the date of application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where, for the purposes of sub-paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in establishing the average hours for which he is engaged in work.

(4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.

(5) A person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in sub-paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week is to be treated as not being in remunerative work in that week.

(7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave, shared

parental leave, parental bereavement leave or adoption leave, or is absent from work because he is ill.

(8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—

- (a) a sports award has been made, or is to be made, to him; and
- (b) no other payment is made or is expected to be made to him.

## **10. Treatment of child care charges**

(1) This paragraph applies where a claimant is incurring relevant child care charges and

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other
  - (i) is incapacitated;
  - (ii) is an in-patient in hospital; or
  - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- (d) and is not in receipt of Universal Credit

(2) For the purposes of paragraph (1) and subject to paragraph (4), a person to whom paragraph (3) applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he

- (a) is paid statutory sick pay;
- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act;
  - (ba) is paid an employment and support allowance;
- (c) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations; or
- (d) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(3) This paragraph applies to a person who was engaged in remunerative work immediately before

- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
- (b) the first day of the period in respect of which earnings are credited, as the case may be.

(4) In a case to which paragraph (2)(c) or (d) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(5) Relevant child care charges are those charges for care to which paragraphs (6) and (7) apply, and shall be calculated on a weekly basis in accordance with paragraph (10).

(6) The charges are paid by the claimant for care which is provided

(a) in the case of any child of the claimant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or

(b) in the case of any child of the claimant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.

(7) The charges are paid for care which is provided by one or more of the care providers listed in paragraph (8) and are not paid

(a) in respect of the child's compulsory education;

(b) by a claimant to a partner or by a partner to a claimant in respect of any child for whom either or any of them is responsible in accordance with regulation 20 (circumstances in which a person is treated as responsible or not responsible for another); or

(c) in respect of care provided by a relative of a child wholly or mainly in the child's home.

(8) The care to which paragraph (7) refers may be provided

(a) out of school hours, by a school on school premises or by a local authority

(i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or

(ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday;

(b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999;

(c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or

(d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or

(e) by

(i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or

(ii) local authorities registered under section 83(1),

where the care provided is child minding or day care of children within the meaning of that Act; or

(f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act or

(g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or

(h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or

(i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or

(j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or

(k) by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or

(l) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 or the Domiciliary Care Agencies (Wales) Regulations 2004; or

(m) by a person who is not a relative of the child wholly or mainly in the child’s home.

In sub-paragraphs (6) and (8)(a), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

(9) Relevant child care charges shall be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge

may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.

(10) For the purposes of paragraph (1)(c) the other member of a couple is incapacitated where

(a) the claimant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work;

(b) the claimant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Act;

(ba) the claimant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations or the Employment and Support Allowance Regulations 2013;

(c) the claimant (within the meaning of regulation 2) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;

(ca) the claimant (within the meaning of regulation 2(1)) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations or the Employment and Support Allowance Regulations 2013 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;

(d) there is payable in respect of him one or more of the following pensions or allowances

(i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Act;

(ii) attendance allowance under section 64 of the Act;

(iii) severe disablement allowance under section 68 of the Act;

(iv) disability living allowance under section 71 of the Act;

- (v) increase of disablement pension under section 104 of the Act;
- (vi) a pension increase paid as part of a war disablement pension or under or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (v) above;
- (vii) main phase employment and support allowance;
- (viii) personal independence payment;
- (ix) armed forces independence payment;

(e) a pension, allowance or payment to which head (ii), (iv), (v), (vi) or (viii) of sub-paragraph (d) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this regulation shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;

(f) sub-paragraph (d) or (e) would apply to him if the legislative provisions referred to in those subparagraphs were provisions under any corresponding enactment having effect in Northern Ireland; or

(g) he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or by Scottish Ministers under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.

(11) For the purposes of paragraph (10), once paragraph (10)(c) applies to the claimant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

(12) For the purposes of paragraph (10), once paragraph (10)(ca) applies to the claimant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.

(13) For the purposes of paragraphs (6) and (8)(a), a person is disabled if he is a person

(a) in respect of whom disability living allowance is payable, or has ceased to be payable solely because he is a patient;

(b) who is registered as blind in a register compiled 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 as blind in a register

maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994;

(c) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding the first Monday in September following that person's sixteenth birthday;

(d) in respect of whom personal independence payment is payable, or has ceased to be payable solely by virtue of regulations made under section 86(1) (hospital in-patients) of the 2012 Act.; or

(e) in respect of whom armed forces independence payment is payable.

(14) For the purposes of Sub-paragraph (1) a person on maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave shall be treated as if she is engaged in remunerative work for the period specified in sub-paragraph (b) ("the relevant period") provided that

(a) in the week before the period of maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave began she was in remunerative work;

(b) the claimant is incurring relevant child care charges within the meaning of paragraph (5); and

(c) she is entitled to statutory maternity pay under section 164 of the Act, statutory paternity pay by virtue of section 171ZA or 171ZB of the Act, , statutory adoption pay by virtue of section 171ZL of the Act, maternity allowance under section 35 of the Act, statutory shared parental pay by virtue of section 171ZU or 171ZV of the Act or qualifying support; statutory parental bereavement pay by virtue of section 171ZZ6 of that Act

(15) For the purpose of sub paragraph 14 the relevant period shall begin on the day on which the person's maternity leave, paternity leave, shared parental leave, parental bereavement leave or adoption leave commences and shall end on

(a) the date that leave ends;

(b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay, or statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay, the date that entitlement ends; or

(c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay or statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay or ends, the date that entitlement to that award of the child care element of working tax credit ends,

whichever shall occur first.

(16) In sub paragraphs (14) and (15)

(a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations; and

(b) “child care element” of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element).

(17) In this paragraph “applicant” does not include an applicant

(a) who has, or

(b) who (jointly with his partner) has, an award of universal credit

## **11. Class of person excluded from this scheme: persons treated as not being in Great Britain**

(1) The class of person described in this paragraph consists of any person treated as not being in Great Britain.

(2) Except where a person falls within sub-paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(4) For the purposes of sub-paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with

(a) regulation 13 of the EEA Regulations

(aa) regulation 14 of the EEA Regulations, but only in case where the right exists under that regulation because the person is

(i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or

(ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;

Or

(b) regulation 16 of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph 5 of that regulation

(4A) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971(1) by virtue of—

(b) Appendix EU to the immigration rules made under section 3(2) of that Act;

(c) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act.”;or

(d) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act;

(4B) Paragraph (4A)(b) does not apply to a person who –

(a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and

(b) would have a right to reside under the EEA Regulations if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (4)(a) or (b);

(5) A person falls within this sub-paragraph if the person is—

(a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker, or a self-employed person;

(b) a family member of a person referred to in paragraph (a)

(c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;

(ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (4A)(b), provided that the relevant person of Northern Ireland falls within paragraph (5)(a), or would do so but for the fact they are not an EEA national;

(cb) a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020;

(cc) a family member of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971;

(d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

(e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971<sup>84</sup> where that leave is-

(i) discretionary leave to enter or remain in the United Kingdom,

(ii) leave to remain under the Destitution Domestic Violence

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<sup>84</sup> 1971 c.77.

concession<sup>85</sup> which came into effect on 1<sup>st</sup> April 2012, or

(iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005<sup>86</sup>;

(f) a person who has humanitarian protection granted under those rules;

(g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999<sup>87</sup> and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

(h) in receipt of income support or on an income-related employment and support allowance; or

(ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4); or

(i) the person makes a new application for a reduction under an authority's scheme established under section 13A(2) of the Local Government Finance Act 1992; or

(ii) the person ceases to be entitled to an income-based jobseeker's allowance.

This does not apply to a person who, on 31<sup>st</sup> March 2015, liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A(2) of the Act and is entitled to an income-based jobseeker's allowance, until the first of the events in sub-paragraphs (i) and (ii) occurs.

(6) A person falls within this sub-paragraph if the person is a Crown servant or member of Her Majesty's forces posted overseas.

(7) A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.

(8) In this paragraph

"claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999<sup>88</sup>;

"EE national" has the meaning given in regulation 2(10) of the EEA Regulations;

"EEA Regulations" means the Immigration (European Economic Area) Regulations 2016 and references to the EEA regulations are to be read with schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal)

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<sup>85</sup> The Destitution Domestic Violence concession is published by the Home Office at <http://www.ukba.homeoffice.gov.uk/>.

<sup>86</sup> S.I. 2005/1379 as amended by S.I. 2013/630 and other amending instruments

<sup>87</sup> 1999 c.33.

<sup>88</sup> Relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c.41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations.

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“family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the EEA Regulations, except that regulation 7(4) of the EEA Regulations does not apply for the purposes of paragraphs (4B) and (5)(ca);

“relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the immigration Act 1971;

## 12. Periods of absence from a dwelling

(1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.

(2) In sub-paragraph (1), a “period of temporary absence” means—

(a) a period of absence not exceeding 4 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—

- (i) the person resides in that accommodation;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let; and

(iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks, where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;

(b) a period of absence not exceeding 4 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let; and

(iii) that period is unlikely to exceed 4 weeks; and

(c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let;
- (iii) the person is a person to whom sub-paragraph (3) applies; and
- (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(3) This sub-paragraph applies to a person who

(a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—

- (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
- (ii) in premises approved under section 13 of the Offender

Management Act 2007<sup>89</sup>, or is detained in custody pending sentence upon conviction;

- (b) is resident in a hospital or similar institution as a patient;
- (c) is undergoing, or whose partner or dependent child is undergoing, in Great Britain or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) is following, in Great Britain or elsewhere, a training course;
- (e) is undertaking medically approved care of a person residing in Great Britain or elsewhere;
- (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
- (g) is, in Great Britain or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
- (h) is a student;
- (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

(4) This sub-paragraph applies to a person who is

(a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983<sup>90</sup>, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>91</sup> or the Criminal Procedure (Scotland) Act 1995<sup>92</sup> or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986<sup>93</sup>); and

(b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952<sup>94</sup> or the Prisons (Scotland) Act 1989<sup>95</sup>.

(5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release

(a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;

(b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;

(c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of

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<sup>89</sup> 2007 c.21.

<sup>90</sup> 1983 c.20.

<sup>91</sup> 2003 asp 13

<sup>92</sup> 1995 c.46

<sup>93</sup> S.I. 1986/595 (N.I. 4).

<sup>94</sup> 1952 c.52.

<sup>95</sup> 1989 c.45.

which he is a resident.

(6) In this paragraph

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“residential accommodation” means accommodation which is provided in

(a) a care home;

(b) an independent hospital;

(c) an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society; or

(d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

### **13. Earnings of employed earners**

(1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner of a person, means any remuneration or profit derived from that employment and includes

(a) any bonus or commission;

(b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;

(c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;

(d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;

(e) any payment by way of a retainer;

(f) any payment made by the applicant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant’s employer in respect of

(i) travelling expenses incurred by the applicant between his home and place of employment;

(ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant’s absence from home;

(g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person’s earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions)

Regulations 2001<sup>96</sup>;

- (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
- (i) statutory paternity pay payable under Part 12ZA of that Act;
- (j) statutory adoption pay payable under Part 12ZB of that Act;
  - (ja) statutory shared parental pay under Part 12ZC of that Act;
  - (jb) statutory parental bereavement pay under part 12ZD of that Act;

(2) Earnings does not include

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.

(3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub- paragraph (1)(l).

## **14. Earnings of self-employed earners**

(1) Subject to sub-paragraph (2), "earnings", in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.

(2) "Earnings" does not include any payments made in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care, nor does it include any sports award.

(3) This paragraph applies to

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- (b) any payment in respect of any
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

(4) Where the applicant's earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by—

- (a) the amount of reduction under this scheme to which the applicant would have been entitled had the payment not been made, plus

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<sup>96</sup> S.I. 2001/1004.

(b) an amount equal to the total of the sums which would fall to be disregarded from the payment under paragraph 12(4)

## 15. Calculation of net profit of self-employed earners

(1) For the purposes of Part 3 paragraphs 12 and 13 the earnings of an applicant to be taken into account must be

(a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;

(b) in the case of a self-employed earner who is not a pensioner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975<sup>97</sup>, his share of the net profit derived from that employment, less

(i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with Appendix 3 sub paragraph (16) (deduction of tax and contributions for self-employed earners); and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(2) There must be disregarded from the net profit of an applicant who is not a pensioner, any sum, where applicable, specified in Part 3 paragraph 12(4).

(3) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less

(a) subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;

(b) an amount in respect of

(i) income tax; and

(ii) social security contributions payable under the SSCBA, calculated in accordance with Appendix 3 paragraph (16) (deduction of tax and contributions for self-employed earners); and

(c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(4) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to sub-paragraph (6), no deduction is to be made under sub-paragraph (3)(a) or (4), in respect of

(a) any capital expenditure;

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<sup>97</sup> S.I. 1975/529.

- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment; and
- (g) in the case of an applicant who is not a pensioner, any debts, except bad debts proved to be such, but this paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to be made under sub-paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for

- (a) the replacement in the course of business of equipment or machinery; or
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The authority must refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt

- (a) a deduction must not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction must be made there under in respect of—
  - (i) the excess of any value added tax paid over value added tax received in the assessment period;
  - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less

- (a) an amount in respect of
  - (i) income tax; and
  - (ii) social security contributions payable under the SSCBA, calculated in accordance with Appendix 3 paragraph (16) (deduction of tax and contributions for self-employed earners); and
- (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss

incurred in any one of his employments must not be offset against his earnings in any other of his employments.

(11) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying premium must be determined

(a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;

(b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

(12) In this paragraph, “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of application.

(13) Subject to paragraph 13(a), after an initial trading period of one year, if the applicant’s self-employed income is NIL, then they will be assessed as earning the weekly equivalent of 30 hours per week at the hourly rate of £5 less any net weekly earnings from employed earnings.

(a) Where a self-employed applicant is subject to a minimum income floor<sup>98</sup> in the assessment of their universal credit award, the earned income figure provided in the universal credit award assessment is to be used as their total net earnings, subject to Part 3 paragraph (a).

## **16. Calculation of deduction of tax and contributions of self-employed earners**

(1) The amount to be deducted in respect of income tax under paragraph 15(3)(b)(i) or 15(9)(a)(i) (calculation of net profit of self-employed earners) must be calculated—

(a) on the basis of the amount of chargeable income, and

(b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007<sup>99</sup> (personal allowances) as is appropriate to his circumstances.

(2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.

(3) The amount to be deducted in respect of social security contributions under paragraph 15(3)(b)(ii) or 15(9)(a)(ii) is the total of

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<sup>98</sup> As defined in The Universal Credit Regulations 2013

<sup>99</sup> 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012

Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

(a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and

(b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.

(4) In this paragraph "chargeable income" means—

(a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 15;

(b) in the case of employment as a child minder, one-third of the earnings of that employment.

## **17. Calculation of income other than earnings - student income**

(1) Sub-paragraphs (2) and (3) apply where—

(a) a relevant payment has been made to a person in an academic year; and

(b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

(2) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of Part 3 paragraph 15(1) in respect of a person to whom sub paragraph (2) applies, is to be calculated by applying the formula

$$[A-(B \times C)] / D$$

where

(a) A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under Appendix 1 paragraph (3)(costs of travel, books and equipment);

(b) B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;

(c) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into

account as income under paragraph 3 Appendix 1 (treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;

(d)  $D$  = the number of reduction weeks in the assessment period.

(3) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of Part 3 paragraph 15(1) in respect of a person to whom sub-paragraph (2) applies, is to be calculated by applying the formula in sub-paragraph (3) but as if

(a)  $A$  = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under Appendix 1 paragraph (3)

(4) In this paragraph

“academic year” and “student loan” have the same meanings as in Appendix 1 (students);

“assessment period” means—

(a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

(b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes—

(i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or

(ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on—

(a) 1st January and ending on 31st March;

(b) 1st April and ending on 30th June;

(c) 1st July and ending on 31st August; or

(d) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependents.

(5) For the avoidance of doubt there must be included as income to be taken into account under Part 3 paragraph 15(1)

(a) any payment to which Appendix 3 13(2) applies; or

(b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependents (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

## **18. Notional income exceptions**

(1) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- (d) any sum to which Appendix 4 sub paragraph 47(2) applies which is administered in the way referred to in sub paragraph 49(1)(a);
- (e) any sum to which sub paragraph 48(a) of Appendix 4 refers;
- (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
- (g) child tax credit;
- (h) working tax credit, or
- (i) any sum to which sub-paragraph (9) applies,

any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.

(2) Any payment of income, other than a payment of income specified in sub-paragraph (3), made

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be

treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

- (3) Sub-paragraph (2) does not apply in respect of a payment of income made
- (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents' Discretionary Fund, the Independent Living Fund (2006); the London Bombings Charitable relief fund, the Windrush Compensation Scheme
    - (aa) a Grenfell Tower support payment
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994<sup>100</sup> (concessionary coal);
  - (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996<sup>101</sup>;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the

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<sup>100</sup> 1994 c.21.

<sup>101</sup> S.I. 1996/207.

Solicitors (Scotland) Act 1980<sup>102</sup>;

(ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and

(iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(4) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.

(5) Subject to sub-paragraph (6), where

(a) an applicant performs a service for another person; and

(b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area, the authority must treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.

(6) Sub-paragraph (5) does not apply

(a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or

(b) in a case where the service is performed in connection with

(i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations; or

(ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or

(c) to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

In sub paragraph 6 (c) "Work placement" means practical work experience which is not undertaken in expectation of payment.

(7) Where an applicant is treated as possessing any income under any of sub-paragraphs (2) to (6), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had

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<sup>102</sup> 1980 c.46.

actually been made and as if it were actual income which he does possess.

(8) Where an applicant is treated as possessing any earnings under sub-paragraph (5) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that Appendix 3 paragraph 13 do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less

(a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007<sup>103</sup> (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;

(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and

(c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

(9) Sub-paragraphs (1),(2) and (5) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.

## **19. Income treated as capital**

The following should be treated as income

(1) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E is to be treated as capital.

(2) Any holiday pay which is not earnings under paragraph 13(1)(d) (earnings of employed earners) is to be treated as capital.

(3) Except any income derived from capital disregarded under Appendix 4 (capital disregards); any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.

(4) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.

(5) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support

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<sup>103</sup> 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) ("2012 Act"); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents' Discretionary Fund, the Independent Living Fund (2006), the London Bombings Charitable Relief Fund, the Windrush Compensation Scheme

(a) a Grenfell Tower support payment

(6) There is to be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.

(7) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

(8) Any arrears of working tax credit or child tax credit must be treated as capital.

(9) Any Arrears of Universal Credit must be treated as capital

## **20. Notional capital**

(1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction or increasing the amount of that reduction

(2) Except in the case of

(a) a discretionary trust,

(b) a trust derived from a payment made in consequence of a personal injury;

(c) any loan which would be obtained only if secured against capital disregarded

(d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or

(e) compensation for the death of one or both parents where the person concerned is under the age of 18.

(f) child tax credit; or

(g) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

(3) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), made

(a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;

- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (4) Sub-paragraph (3) does not apply in respect of a payment of capital made
- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, The Scottish Infected Blood Support Scheme, an approved blood scheme, The London Emergencies Trust, The We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents' Discretionary Fund, the Independent Living Fund (2006), the London Bombings Relief Charitable Fund, the Windrush Compensation Scheme
- (aa) a Grenfell Tower support payment
- (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
- (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
- (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
- (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
- (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
- (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
- (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;

(ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and

(iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(5) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case

(a) the value of his holding in that company must, notwithstanding Part 3 paragraph 20 (calculation of capital) be disregarded; and

(b) he must, subject to sub-paragraph (6), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(6) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (5) is to be disregarded.

## **21. Disregard of change in tax, contributions etc.**

In calculating the applicant's income the authority may disregard any legislative change

(a) in the basic or other rates of income tax;

(b) in the amount of any personal tax relief;

(c) in the rates of social security contributions payable under the SSCBA or in the lower earnings limit or upper earnings limit for Class 1 contributions under that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions);

(d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the SSCBA;

(e) in the maximum rate of child tax credit or working tax credit,

for a period not exceeding 30 reduction weeks beginning with the reduction week immediately following the date from which the change is effective.

## **22. Earned income disregards**

An earned income disregard is applied where the following conditions are satisfied

(a) 'Permitted Work' approved by the DWP

The disregard is £140.00. per week if you are in 'permitted work'. This means work the DWP has agreed you can do while you are receiving:

(i) ESA (C)

(ii) Incapacity benefit:

- (iii) severe disablement allowance; or
- (iv) national insurance credits instead of those benefits

If you are a couple and only one of you is in permitted work, it is disregarded from that one's earned income. But if it is less than £140.00 per week, the balance up to £20 per week is disregarded from the other one's earned income. This disregard is set at 16 times the national living wage so when that goes up the £140.00 per week increases.

(b) Lone Parents

Unless (a) applies to you, the disregard is £25 per week if you are a lone parent

(c) Sickness or disability

Unless (a) or (b) apply to you, the disregard is £20 per week if your applicable amount includes:

- (i) a work-related activity component
- (ii) a support component
- (iii) a disability premium
- (iv) a severe disability premium

(d) Carers:

Unless (a) to (c) apply to you, the disregard is £20 per week if your applicable amount includes a carer premium.

If you are a couple and only one of you is a carer, it is disregarded from the carer's earned income, but if it less than £20 per week, the balance up to £10 per week is disregarded from the other one's earned income.

(e) Special Occupations:

Unless (a) to (d) apply to you, the disregard is £20 per week if you or your partner are:

- (i) a part-time fire-fighter;
- (ii) a part-time lifeboat worker;
- (iii) an auxiliary coastguard; or
- (iv) a member of the Territorial Army or similar reserve forces

(f) Couples:

For all other couples, the disregard is £10 per week.

(g) Single Claimants

For all other single claimants, the disregard is £5 per week

(h) Additional Earned Income

You qualify for the additional earned income disregard if you meet one or more of the conditions (a) to (d) below

- (a) You receive working tax credit and it includes the WTC '30 hour element'

If you are a couple, at least one of you has to qualify for the WTC 30 hour element.

(b) You:

- (i) are aged 25 or more; and
- (ii) work at least 30 Hours per week

If you are a couple, at least one of you has to meet both halves of this condition.

(c) You:

- (i) are responsible for one or more children or young persons; and
- (ii) work at least 16 hours per week

If you are a couple, only one of you has to work at least 16 hours per week

(d) You:

- (i) qualify for a work-related activity component, a support component, or a disability premium; and
- (ii) work at least 16 hours per week.

If you are a couple, at least one of you has to meet each half of this condition (but it need not be the same one who meets both halves).

For condition (a) you have to be on WTC (and getting the WTC 30 hour element). For conditions (b) to (d) you don't have to be on WTC (but they are the same as the conditions used in WTC for getting the 30 hour element)

### **23. Sums disregarded in the calculation of income other than earnings:**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.

2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.

3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.

4. Any amount paid by way of tax on income which is to be taken into account under regulation 30 of the Income Tax Act 2007.

5. Any payment in respect of any expenses incurred or to be incurred by an applicant who is

- (a) engaged by a charitable or voluntary organisation, or
- (b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under Appendix 3 Paragraph 18 (4)

6. Any payment in respect of expenses arising out of the applicant's participation in a service user group.

7. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.

9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.

10. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.

11. Any disability living allowance, personal independence payment or an AFIP.

12. Any concessionary payment made to compensate for the non-payment of

- (a) any payment specified in paragraph 11 or 14;
- (b) income support;
- (c) an income-based jobseeker's allowance;
- (d) an income-related employment and support allowance.

13. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

14. Any attendance allowance.

15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

16. (1) any payment

(a) by way of an education maintenance allowance made pursuant to

- (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.);
- (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);

(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;

(b) corresponding to such an education maintenance allowance, made pursuant to

(i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

(ii) regulations made under section 181 of that Act; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to

(a) regulations made under section 518 of the Education Act 1996;

(b) regulations made under section 49 of the Education (Scotland) Act 1980; or

(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

17. Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.

18. (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

(a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;

(b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or

(c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

19. (1) Subject to sub-paragraph (2), any of the following payments

(a) a charitable payment;

(b) a voluntary payment;

(c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;

(d) a payment under an annuity purchased

(i) pursuant to any agreement or court order to make payments to the applicant; or

(ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or

(e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

(2) Sub-paragraph (1) does not apply to a payment which is made or due to be made by

(a) a former partner of the applicant, or a former partner of any member of the applicant's family; or

(b) the parent of a child or young person where that child or young person is a member of the applicant's family.

20. Subject to paragraph 40, the whole of any of the following, namely

(a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);

(b) a war widow's pension or war widower's pension;

(c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;

(d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;

(e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;

(f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;

(g) 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.

21. Subject to paragraph 40, £15 of any

(a) widowed mother's allowance paid pursuant to section 37 of the SSCBA;

(b) widowed parent's allowance paid pursuant to section 39A of the SSCBA.

22. (1) Any income derived from capital to which the applicant is or is treated under part 3 paragraph 20 as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Appendix 4 (capital Disregards) .

(2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Appendix 4 (Capital Disregards) but only to the extent of

(a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or

(b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of "water charges" in appendix 3 (1) (Glossary) applies to sub-paragraph (2) of this paragraph with the omission of the words "in so far as such charges are in respect of the dwelling which a person occupies as his home".

23. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating

(a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;

(b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or

(c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

24. (1) Where the applicant is the parent of a student aged under 25 in advanced education who either

(a) is not in receipt of any award, grant or student loan in respect of that education; or

(b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980, and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, an amount specified in subparagraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount must be equal to

(a) the weekly amount of the payments; or

(b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b), whichever is less.

25. Any payment made to the applicant by a child or young person or a non-dependant.

26. Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or

(b) where the aggregate of any such payments is £20 or more per week, £20.

27. Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to

(a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;

(b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

28. (1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

29. Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

30. (1) Any payment made to the applicant in respect of a person who is a member of his family

(a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);

(b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);

(c) which is a payment made by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance);

(d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

31. Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made

(a) by a local authority under

(i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),

(ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or

(iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or

(b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

32. Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant’s household but is temporarily in his care, by

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

33. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

34. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the applicant.

- (2) Sub-paragraph (1) applies only where A
  - (a) was formerly in the applicant’s care, and
  - (b) is aged 18 or over, and
  - (c) continues to live with the applicant.

35. (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments

- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b);
- And

(b) meet any amount due by way of premiums on

(i) that policy; or

(ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

36. Any payment of income which by virtue of appendix 3 paragraph 19 (income treated as capital) is to be treated as capital.

37. Any

(a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or

(b) occasional assistance.

38. Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

39. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

40. The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under part 3 paragraph 10 (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under appendix 1 (students) paragraph 3, sub paragraph 10(b) and sub paragraph 12(d), sub paragraph 16 (treatment of student loans), paragraph 4 sub paragraph 3 (treatment of payments from access funds) and paragraphs 20 and 21 must in no case exceed £20 per week.

41. (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents' Discretionary Fund the London Bombings Relief Charitable Fund or the Independent Living Fund (2006).

(a) a Grenfell Tower support payment

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of

(a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;

(b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of

(a) the person who is suffering from haemophilia or who is a qualifying person;

(b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where

(a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either

(i) to that person's parent or step-parent, or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which subparagraph refers, where

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support Scheme, an Approved Blood Scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents' Discretionary Fund the London Bombings Relief Charitable Fund or the Independent Living Fund (2006). the Windrush Compensation Scheme

(a) a Grenfell Tower support payment

42. Any housing benefit.

43. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

44. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or the loss of a benefit payable under the Benefit Acts

45. Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax).

46. (1) Any payment or repayment made

(a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

47. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection

with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

48. Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

49. (1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

50. (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In sub-paragraph (1)

"child maintenance" means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under

(a) the Child Support Act 1991;

(b) the Child Support (Northern Ireland) Order 1991;

(c) a court order;

(d) a consent order;

(e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

"liable relative" means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

51. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

52. Any guardian's allowance.

53. (1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (un employability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

54. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

55. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

56. (1) Any payment which is

(a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph "the Dispensing Instruments" means the Order in Council of 19<sup>th</sup> December 1881, the Royal Warrant of 27<sup>th</sup> October 1884 and the Order by His Majesty of 14<sup>th</sup> January 1922 (exceptional grants of pay, non-effective pay and allowances).

57. Any council tax benefit to which the applicant is entitled.

58. Except in a case which falls under Appendix 3 Paragraph 22, where the applicant is a person who satisfies any of the conditions of sub-paragraph (h) of that paragraph, any amount of working tax credit up to £17.10.

59. Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).

60. (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person

(a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;

(b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) applies only in respect of payments which are paid to that person from the special account.

61. (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) "food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

62. Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.

63. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

64. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.

65. (1) Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) "local authority" includes, in England, a county council.

66. Any payment of child benefit.

# Appendix 4

## Capital disregards

### Capital Disregards

(1) Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.

(2) Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.

(3) Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment.

(4) The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but only one dwelling is to be disregarded under this paragraph.

(5) Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.

(6) Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.

(7) Any premises occupied in whole or in part

(a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;

(b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.

(8) Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment support allowance, the whole of his capital.

(9) Where the applicant is a member of a joint-claim couple for the purposes of the jobseekers Act 1995 and his partner is on income-based jobseekers allowance, the whole of the applicant's capital

(10) Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

(11) (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the applicant where

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

(b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business, for a period of 26 weeks from the date on which the application for a reduction under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(12) (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

(a) any payment for disability living allowance, personal independence payment, AFIP, any attendance allowance or Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

(b) an income-related benefit under Part 7 of the SSCBA;

(c) an income-based jobseeker's allowance;

(d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;

(e) working tax credit and child tax credit;

(f) an income-related employment and support allowance,

(g) to rectify, or compensate for, an error made by an officer of the Department for Work and Pensions which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the applicant's entitlement to contributory employment and support allowance, being an amount to which paragraph

2 does not apply

(h) Universal Credit

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is

(a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and

(b) received by the applicant in full on or after 14th October 2001, sub-paragraph (1) has effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of a reduction under this scheme, for the remainder of that period if that is a longer period.

(c) Subject to paragraph (2)(b), any payment of £5,000 or more received by the applicant in full on or after the day on which the applicant became entitled to a reduction under an authority’s scheme which has been made to rectify, or compensate for, an error made by an officer of the Department for Work and Pension which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the applicant’s entitlement to contributory employment and support allowance.

(3) For the purposes of sub-paragraph (2), “the period of an award of a reduction under this scheme” means

(a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one installment); and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant

(i) is the person who received the relevant sum; or

(ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.

(4) In sub-paragraphs(1)(g) and (2)(c) “contributory employment and support allowance” means an allowance under part 1 of the Welfare Reform Act 2007 as amended by provisions of Schedule 3, and part 1 of schedule 14, to the Welfare Reform Act 2012 that remove references to an income related allowance

(13) Any sum

(a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or

(b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

(14) Any sum

(a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 as a condition of occupying the home;

(b) which was so deposited and which is to be used for the purchase of another home,

for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.

(15) Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to a reduction under this scheme or to increase the amount of that reduction.

(16) The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

(17) Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

(18) (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.

(2) But sub-paragraph (1)

(a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;

(b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);

(c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;

(d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).

(19) The value of the right to receive any income under a life interest or from a life rent.

(20) Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

(21) The surrender value of any policy of life insurance.

(22) Where any payment of capital falls to be made by installments, the value of the right to receive any outstanding installments.

(23) Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

(24) (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

(25) Any

- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
- (b) occasional assistance.

(26) Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

(27) Any capital which by virtue of paragraph 16 (Capital treated as income) or appendix 1 (3) Calculation of grant income is to be treated as income.

(28) Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

(29) (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, The Scottish Infected Blood Support Scheme, an approved blood scheme, The London Emergencies Trust, the We Love Manchester Emergency Fund, , , the Windrush Compensation Scheme, the National Emergencies Trust the London Bombings Relief Charitable Fund,(collectively referred to in this paragraph as the trusts,

(1A) Any Grenfell Tower support payment

(1B) Any payment made by the Child Migrants Trust (registered charity number 1171479) under the scheme for former British child migrants

(2) Any payment by or on behalf of a person who is suffering or who suffered from hemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers or from a Grenfell Tower support payment and which is made to or for the benefit of

(a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;

(b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from hemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers, or from a Grenfell Tower support payment and which is made to or for the benefit of—

(a) the person who is suffering from hemophilia or who is a qualifying person;

(b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Sub-paragraph (3) does not apply if

(a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or

(b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

(5) Any payment by a person who is suffering from hemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers or from a Grenfell Tower support payment, where

(a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either

(i) to that person's parent or step-parent; or

(ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

(6) Any payment out of the estate of a person who suffered from hemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, or from a Grenfell Tower support payment where

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced

or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either

(i) to that person's parent or step-parent; or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian, but only for a period of two years from the relevant date.

(7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from

(a) any payment of income or capital made under or deriving from any of the Trusts; or

(b) a Grenfell Tower Support payment

(30) (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

(31) Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

(32) Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which the first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

(33) Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

(34) Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

(35) The value of the right to receive an occupational or personal pension.

(36) The value of any funds held under a personal pension scheme.

(37) The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

(38) Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation, The Scottish Approved Blood Support Scheme, an approved blood scheme, the London Emergencies trust, The We Love Manchester Emergency Fund the Independent Living Fund (2006), the London Bombings Relief Charitable Fund. the Windrush Compensation Scheme, the National Emergencies Trust.

(a) a Grenfell Tower support payment

(b) Any payment made by the Child Migrants Trust (registered charity number 1171479) under the scheme for former British child migrants;

(39) Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.

(40) Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

(41) Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used

(a) to purchase premises intended for occupation as his home; or

(b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.

(42) Any arrears of supplementary pension which is disregarded but only for a period of 52 weeks from the date of receipt of the arrears.

(43 (1) Any payment or repayment made

(a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a

payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(44) Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

(45) Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

(46) Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

(47) Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

(48) Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1944 to homeworkers assisted under the Blind Homeworkers' Scheme.

(49) (1) Any sum of capital to which sub-paragraph (2) applies and

(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;

(b) which can only be disposed of by order or direction of any such court; or

(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from

(a) an award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

(50) Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from

(a) award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

(51) Any payment to the applicant as holder of the Victoria Cross or George Cross.

(52) In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by

that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

(53) (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) "food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

(54) (1) Any payment

(a) by way of an education maintenance allowance made pursuant to

(i) regulations made under section 518 of the Education Act 1996;

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;

(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;

(b) corresponding to such an education maintenance allowance, made pursuant to

(i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

(ii) regulations made under section 181 of that Act; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to

(a) regulations made under section 518 of the Education Act 1996;

(b) regulations made under section 49 of the Education (Scotland) Act 1980; or

(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

(55) In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

(56) Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

(57) Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of

- (a) the applicant;
- (b) the applicant's partner;
- (c) the applicant's deceased spouse or deceased civil partner; or
- (d) the applicant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War,

(58) (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 20, whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

(b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or

(c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to

(a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (3)(b), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending two years after that date; or

(c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending

(i) two years after that date; or

(ii) on the day before the day on which that person

(aa) ceases receiving full-time education; or

(bb) attains the age of 20,

whichever is the latest.

(5) In this paragraph, a reference to a person

(a) being the diagnosed person's partner;

(b) being a member of a diagnosed person's family;

(c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph

"diagnosed person" means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

"relevant trust" means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

"trust payment" means a payment under a relevant trust.

(59) The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse

or deceased civil partner

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died, during the Second World War.

(60) (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) "local authority" includes in England a county council.

(61) Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under sections 31 to 33 of the Care Act 2014 (direct payments)

(62) Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

(63) Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

(64) Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mothers pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.

(65) Any lump sum payment made in accordance with regulation 24 of the victims' payments regulations 2020.

(66) Any sum paid by means of assistance in accordance with the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019.

(67) Any sum paid by means of winter heating assistance in accordance with regulations under section 30 of the Social Security (Scotland) Act 2018.

## **Appendix 5**

### **Applicable amounts**

#### **Personal allowances**

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) are the amounts specified for the purposes of part 3, 23, paragraph (1)(a) and paragraph 2(b)(i)(ii)

<i>Column (1)</i>	<i>Column (2)</i>
<i>Person or couple</i>	<i>Amount</i>
(1) A single applicant who—	
(a) is entitled to main phase employment and Support allowance	(a) £74.70
(b) is aged not less than 25	(b) £74.70
(c) is aged not less than 18 but less than 25	(c) £59.20
(2) Lone Parent	(2) £74.70
(3) Couple	(3) £117.40

2. For the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if

- (a) paragraph 18 is satisfied in relation to the applicant; or
- (b) the applicant is entitled to a converted employment and support allowance.

3. (1) The amounts specified in column (2) below in respect of each person specified in column (1) are, for the relevant period specified in column (1), the amounts specified for the purposes of part 3, 23, paragraph (1)(b)(i)(ii) and paragraph (2)(b)(iii)

<i>Column (1)</i>	<i>Column (2)</i>
<i>Child or Young person</i>	<i>Amount</i>
<i>Person in respect of the period-</i>	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that persons sixteenth Birthday	(a) £68.60
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that persons twentieth birthday	(b) £68.60

(2) In column (1) of the table in sub-paragraph (3), "the first Monday in September" means the Monday which first occurs in the month of September in any year.

## **Premiums**

4. Except as provided in paragraph 5, the premiums specified for the purposes of part 3, 23, paragraphs (1)(c) and 2(b)(iv) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 8 to 13 in respect of that premium.

5. Subject to paragraph 6, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.

**6.** The following premiums, namely

- (a) a severe disability premium to which paragraph 10 applies;
- (b) an enhanced disability premium to which paragraph 11 applies;
- (c) a disabled child premium to which paragraph 12 applies; and
- (d) a carer premium to which paragraph 13 applies, may be applicable in addition to any other premium which may apply under this Schedule.

**7.** (1) Subject to sub-paragraph (2) of appendix 5, 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 applies, any period during which, apart from the provisions 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 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 13, a person is to be treated as being in receipt of carer's allowance, 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 or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

## **Disability premium**

**8.** The condition is that

(a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 9 is satisfied; or

(b) where the applicant has a partner, either

(i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 9(1)(a) or (b) is satisfied by him; or

(ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 9(1)(a) is satisfied by his partner.

## **Additional condition for the disability premium**

9. (1) Subject to sub-paragraph (2) and paragraph 7, the additional condition referred to in paragraph 8 is that either

(a) the applicant or, as the case may be, his partner

(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, 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 remained continuously entitled to

(aa) council tax benefit (in relation to the period prior to 1st April 2015, and

(bb) a reduction under this scheme (in relation to the period commencing on 1<sup>st</sup> April 2015),

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 58(11)(i) (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 58 (11)(i) (treatment of child care charges); or

(v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

(vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public

Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972; 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

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (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) 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), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he is, on again becoming so incapable of work, immediately thereafter to be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he is to continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

(5) 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 are to be treated as one continuous period.

(6) 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 Act (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

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)

- (a) the reference to a period of 8 weeks in sub-paragraph (3); and
- (b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

## **Severe disability premium**

**10.** (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 payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and

(ii) subject to sub-paragraph (4), he has no non-dependents aged 18 or over normally residing with him or with whom he is normally residing; and

(iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA 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 payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and

(ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and

(iii) subject to sub-paragraph (4), the applicant has no non-dependents 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 a couple or, in the case of a polygamous marriage, for one or more but not all the partners 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 partner of a polygamous 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 paragraph 9(1)(a)(vii) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

(4) 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 disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) 116 of the SSCBA, or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or

(b) a person who is blind or is treated as blind within the meaning of paragraph 9 (1)(a)(vii) and (2).

(5) 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, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

(b) 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.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), 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.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references 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(a) (loss of benefit provisions).

## **Enhanced disability premium**

11. (1) Subject to sub-paragraph (2), the condition is that

(a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or

(b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made 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 72(3) of the SSCBA in respect of

- (i) the applicant; or
- (ii) a member of the applicant's family, who has not attained the qualifying age for state pension credit; or

(c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of:

- (i) the applicant; or
- (ii) a member of the applicant's family, who has not attained the qualifying age for state pension credit.

(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 (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is:-

(a) an applicant who:

- (i) is not a member of a couple or a polygamous marriage; and
- (ii) is a patient within the meaning of appendix 3,10 paragraph (9)(f) (treatment of child care charges) and has been for a period of more than 52 weeks; or

(b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of appendix 3,10 paragraph (9)(f) and has been for a period of more than 52 weeks.

## **Disabled child premium**

**12.** 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

(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 or treated as blind within the meaning of paragraph 9; 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**

**13.** (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.

(2) Where a carer premium is awarded but:-

(a) the person in respect of whose care the carer's allowance has been awarded dies; or

(b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance, the condition for the award of the premium is to 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) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday;

(b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for a reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which:-

(a) the person in respect of whose care the carer's allowance has been awarded dies; or

(b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

## **Persons in receipt of concessionary payments**

**14.** For the purpose of determining whether a premium is applicable to a person under paragraphs 9 to 13, 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.

## Persons in receipt of benefit for another

15. For the purposes of this Part of Appendix 5, 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.

### Amounts of Premiums Specified

<b>16. Premium</b>	<i>Amount</i>
<b>(1) Disability Premium</b>	<b>(1)</b>
a) where the applicant satisfies the condition in paragraph 8(a);	(a) £35.10
(b) where the applicant satisfies the condition in paragraph 8(b).	(b) £50.05
<b>(2) Severe Disability Premium:-</b>	<b>(2)</b>
(a) where the applicant satisfies the condition in paragraph 10(2)(a);	(a) £67.30
b) where the applicant satisfies the condition in paragraph 10(2)(b):- (i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5); (ii) in a case where there is no-one in receipt of such an allowance.	(b)(i) £67.30  (b)(ii) £134.60
<b>(3) Disabled Child Premium.</b> In respect of each child or young person in respect of whom the condition specified in paragraph 12 is satisfied	(3) £65.94
<b>(4) Carer Premium</b>  In respect of each person who satisfies the condition specified in paragraph 13	4) £37.70
<b>(5) Enhanced disability premium</b>	<b>(5)</b>
(a) in respect of each child or young person in respect of whom the conditions in paragraph 11 are satisfied;	(a) £26.67
(b) in respect of each person who is neither (i) a child or young person nor (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 11 are satisfied;	(b) £17.20
(c) where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 11 are satisfied in respect of a member of that couple or polygamous marriage	c) £24.60

## **The components**

**17.** Subject to paragraph 19 the applicant is entitled to the component in paragraph 20 if

(a) the applicant or the applicant's partner has made a claim for employment and support allowance;

(b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and

(c) either:

(i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or

(ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

**18.** Subject to paragraph 19, the applicant is entitled to the component in paragraph 20 if the applicant or his partner is entitled to a converted employment and support allowance.

**19.** (1) The applicant has no entitlement under paragraph 20 if the applicant is entitled to the disability premium under paragraphs 8 and 9.

(2) Where the applicant and the applicant's partner each satisfies paragraph 20, the component to be included in the applicant's applicable amount is that which relates to the applicant.

## **The Support Component**

**20.** The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

## **Amount of Component**

**21.** The amount of the support component is £39.40

## **Transitional Addition**

**22.** (1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 25 where the applicant or the applicant's partner ("the relevant person"):-

(a) is entitled to a converted employment and support allowance; or

(b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional

Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008 and:-

(i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008; and

(ii) is not in receipt of an income-related employment and support allowance, unless the amount of the transitional addition calculated in accordance with paragraph 28 would be nil.

(2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following

(a) the reduction of the transitional addition to nil in accordance with paragraph 26;

(b) the termination of the applicant's award of reduction under this scheme;

(c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;

(d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;

(e) 5th April 2020.

**23.** (1) This paragraph applies where

(a) the applicant's entitlement to a transitional addition ends, by virtue of the termination of the applicant's award of reduction, under:-

(i) paragraph 22(2)(b);

(ii) sub-paragraph (3)(b); or

(iii) paragraph 24(3)(b);

(b) within 12 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to a reduction under this scheme;

(c) in the reduction week in which the applicant again becomes entitled to a reduction under this scheme the relevant person is entitled to an employment and support allowance which is not income-related; and

(d) at the date on which the applicant again becomes entitled to a reduction under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a

transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 26), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following:-

(a) the reduction of the transitional addition to nil in accordance with paragraph 26;

(b) the termination of the applicant's award of a reduction under this scheme;

(c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);

(d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;

(e) 5<sup>th</sup> April 2020

**24. (1)** This paragraph applies where:

(a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under:-

(i) paragraph 22(2)(c);

(ii) paragraph 23(3)(c); or

(iii) sub-paragraph (3)(c);

(b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;

(c) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations 2008 applies to the relevant person; and

(d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 26), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following

(a) the reduction of the transitional addition to nil in accordance with paragraph 26;

(b) the termination of the applicant's award of a reduction under this scheme;

(c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);

(d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;

(e) 5th April 2020.

## **Amount of Transitional Addition**

**25.** (1) Subject to paragraph 26, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 ("the 2010 Regulations") is made in respect of the relevant person:-

(a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and

(b) Amount B is the basic amount that applied on that day as a result of that decision.

(3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the 2010 Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the 2010 Regulations

(a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and

(b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.

(4) In this paragraph and paragraph 26, "basic amount" means the aggregate of such amounts as may apply in the applicant's case in accordance with paragraph 23(1)(a) to (e) or paragraph 24(1)(a) to (f) (applicable amounts).

**26.** (1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant's basic amount, the transitional addition that applies immediately before the change of circumstances must be reduced by the amount by which Amount C exceeds Amount D.

- (2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition must be reduced to nil.
- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.