

Public Document Pack

CABINET

MONDAY 21 JANUARY 2013
10.00 AM

Bourges/Viersen Room - Town Hall

Contact – Alexander.daynes@peterborough.gov.uk, 01733 452447

AGENDA

	Page No
1 Apologies for Absence	
2 Declarations of Interest	
3 Minutes of Cabinet Meeting - 10 December 2012	1 - 6
STRATEGIC DECISIONS	
4 Council Tax Base and Business Rates 2013/14*	7 - 12
5 Council Tax Support Scheme	13 - 166

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Cabinet Members
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*Any agenda item highlighted in bold and marked with an * is a 'key decision' involving the Council making expenditure or savings of over £500,000 or having a significant effect on two or more wards in Peterborough. These items have been advertised previously on the Council's Forward Plan (except where the issue is urgent in accordance with Section 15 of the Council's Access to Information rules).*



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MINUTES OF CABINET MEETING HELD 10 DECEMBER 2012

PRESENT

Cabinet Members: Councillor Cereste (chair), Councillor Dalton, Councillor Fitzgerald, Councillor Hiller, Councillor Holdich, Councillor Lee, Councillor Seaton, Councillor Scott and Councillor Walsh.

Cabinet Advisers: Councillor Goodwin and Councillor North

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Elsey.

2. DECLARATIONS OF INTEREST

None received.

3. MINUTES OF CABINET MEETING 5 NOVEMBER 2012

Cabinet agreed that the minutes of the meeting held 5 November 2012 were accurate.

STRATEGIC DECISIONS

4. CONSULTATION ON PROPOSED CHANGES TO ELIGIBILITY CRITERIA AND CHARGING POLICY

Cabinet received a report seeking approval to commence consultation on a number of measures designed to increase the emphasis on promoting independence and prevention amongst people with developing social care needs and to revise the eligibility criteria for Adult Social Care from April 2013. The report also proposed some changes to the Adult Social Care charging policy, including a review of the Disability Related Expenditure Disregard in the financial assessment and the introduction of new charges for assistive technology and the appointeeship service.

Councillor Fitzgerald introduced the report highlighting that new ways of working and qualifying residents for services were required in order to provide a more effective service delivering better value for money.

Following questions from Cabinet Members, the Council's Assistant Director Care Services Delivery and the Council's Executive Director Adult Social Care advised that:

- all service users and their families would be included in the consultation;
- it is unlikely that a change to eligibility criteria would affect any service user currently in residential care;
- the options for the future of the hot and frozen meal service were to be reviewed, but no one would be left without access to an appropriate meal;
- keeping people living independently wherever possible would remain the overriding priority;

- assistive technology included items such as smoke/gas detectors, water level detectors in baths, night time sensors etc.

Cabinet considered the report and **RESOLVED** to:

1. Approve the commencement of consultation with social care service users, carers and partners on revising the Council's eligibility criteria for Council supported social care services.
2. Include within that consultation, proposals to enhance the range of preventative services available to people with care needs who fall below current or any revised eligibility criteria.
3. Approve consultation on a series of modifications to the Adult Social Care charging policy including a review of the treatment of Disability Related Expenditure in the financial assessment, the introduction of charges for the supply of assistive technology and the "Appointeeship Service" (as detailed in paragraph 4.15) and the removal of the subsidy to the home meals delivery service (as detailed in paragraph 4.16).
4. Note that phase three of the increases in charges agreed in 2010/11 is due to be implemented in April 2013 as set out in the attached schedule.

REASONS FOR THE DECISION

Consultation with those affected by a change to eligibility criteria would enable implications of those changes to be fully considered. It would provide opportunities for people receiving care services, their families and carers, and for partner agencies to give their views and to outline any concerns or consequences.

The consultation would also enable views and evidence to be gathered of the effectiveness of the current range of preventative services in place and views of where these might be developed should the decision be made to implement a change in criteria.

Consultation on the proposed revisions to the charging policy would enable views to be gathered from those likely to be affected by changes and for the impact to be fully considered prior to decisions being made. In relation to the Disability Related Expenditure disregard, consultation would involve discussion with disabled service users and with disability groups, including the Disability Forum, about the best ways of targeting resources and in this case income disregards to take account of the additional costs of living as a disabled person.

Given that each of these proposals, if implemented, would result in financial savings either through reducing costs or increasing income, consultation will also ensure that when decisions are made, consideration of the availability of resources and the service implications are appropriately balanced.

ALTERNATIVE OPTIONS CONSIDERED

Eligibility criteria

Consideration was given to waiting for Department of Health guidance on eligibility criteria expected in 2015. However, it was felt reviewing the criteria now placed the Authority in a sound position to be prepared for the national changes being signalled in line with available resources.

Charging policy

i) No review of the level of the Disability Related Expenditure Disregard could be undertaken and the DRED could be retained at the current level. This option was rejected as the current scheme did not take account of differing levels of need, and people with lower level requirements, in terms of disability related expenditure requirements, currently received the same level of disregard as people with higher requirements. In addition, it did not take account of the higher level of disregard allowed in Peterborough in comparison with other authorities.

ii) Leave the charging policy unchanged. This option was rejected because the charging policy would be inconsistent in its treatment of charges for different care services, and would not be in-step with national changes to the state pension age.

iii) Maintain the status quo in terms of charging for the appointee client income service and meals charges. This option was rejected because additional revenue could be reasonably raised from the application of a charge / charge increase for these specific care services.

The consultation would seek to explore the implications of the proposals set out in this report and may lead to alternatives or modifications being considered prior to final recommendations being made.

5. PETERBOROUGH CITY CENTRE DEVELOPMENT PLAN DOCUMENT (DPD) - CONSULTATION DRAFT

Cabinet received a presentation and report seeking its approval of the City Centre DPD Consultation Draft (hereafter referred to as the 'City Centre Plan') for public consultation starting early in the New Year.

Councillor Cereste introduced the report highlighting that there were many aspects to be completed in the years ahead including new shops and housing, improved transport links and other infrastructure to turn the city from a local centre to a regional centre.

The Council's Principal Strategic Planning Officer advised Cabinet that the consultation video presentation would be put onto the website Youtube and be circulated to schools.

Cabinet considered the report and **RESOLVED** to:

Approve the publication of the City Centre Plan (Consultation Draft Version) for six weeks public consultation starting in early 2013.

REASONS FOR THE DECISION

Cabinet was recommended to approve the City Centre Plan (consultation draft) for public consultation because it would help deliver the city's growth targets set out in the Core Strategy. It would help to encourage and coordinate further investment in the city centre and the regeneration of a number of large brownfield sites in the City Centre such as the former Hospital site, the Railway station and North Westgate.

ALTERNATIVE OPTIONS CONSIDERED

The council was required to produce a City Centre Plan in accordance with its approved Local Development Scheme (LDS) and Core Strategy. The option of not producing a City Centre Plan would mean that the council would not be working in accordance with its LDS and would not be in a position to deliver the growth and regeneration for the city centre. Therefore the alternative option of not producing the City Centre Plan was rejected.

6. FLOOD AND WATER MANAGEMENT SUPPLEMENTARY PLANNING DOCUMENT (SPD)

Cabinet received a report requesting it adopted the Flood and Water SPD. The SPD would provide guidance to developers on flood and water management in Peterborough. It expanded on overarching headline policy contained in the Council's adopted Core Strategy and (assuming it was adopted on 5th December 2012) Planning Policies DPDs. The document had been subject to public consultation and had now been revised and updated accordingly ready for adoption.

Councillor Hiller introduced the report highlighting that the Environment Agency recognised the document as being best practice within their own agency and had proposed that it be used for wider promotion and suggested that Council officers be used to advise other Authorities on best practice in accordance with the contents of the SPD. Further to this, Anglian Water had also commented that the document stood out as best practice for others to follow.

Councillor Goodwin expressed her thanks to Officers for their work during the recent period of heavy rain that resulted in several flood alerts for local residents.

Cabinet considered the report and **RESOLVED** to:

Adopt the Flood and Water Management Supplementary Planning Document.

REASONS FOR THE DECISION

There was no statutory duty to prepare this SPD. However, without it, developers could be confused or misinformed as to how they can deliver fit-for-purpose development schemes in Peterborough that met flood and water management requirements. This could have an impact on development coming forward as additional time would need to be spent on negotiating applications where flood or water management issues occurred.

This policy document was supported by Peterborough's water management partners, improved current and future service delivery through the more efficient processing of planning applications and future drainage approval applications.

Overall, the document helps developers, helps deliver growth and helps achieve sustainable development.

ALTERNATIVE OPTIONS CONSIDERED

Option 1 (Recommended) – Adopt this SPD so that developers and water management partners have clear guidance and policy to assist development in meeting local, national and European flood and water management requirements. The SPD also allows planning and development to make a smoother transition to, and be better aligned in the long term with, the new sustainable drainage provisions to be commenced by government in 2013/4.

Option 2 – The Council could decide not to adopt this SPD and leave policy to be produced nationally. This would leave more areas of European and national policy open to wider interpretation which would reduce the efficiency of Peterborough's planning service. It could be harder for local considerations to be taken into account when developers try to meet national flood and drainage legislation. Working relations with water management partners would also be less efficient due to the lack of formal local agreement on water issues.

Option 3 - The Council could undertake another public consultation on the SPD. This would lead to a potential adoption date of summer/autumn 2013. In the interim there would be less clarity over the inclusion of drainage and water environment issues within planning applications. Development may struggle to understand what is expected of it by Peterborough City Council and other water management partners.

7. OUTCOME OF PETITIONS

Cabinet received a report updating it on the progress being made in response to petitions in accordance with Standing Order 13 of the Council's Rules of Procedure.

Councillor Cereste introduced the report.

Cabinet considered the report and **RESOLVED** to:

Note the action taken in respect of petitions presented to full Council.

REASONS FOR THE DECISION

Standing Orders required that Council receive a report about the action taken on petitions. As the petitions presented in this report have been dealt with by Cabinet Members or officers it is appropriate that the action taken is reported to Cabinet, prior to it being included within the Executive's report to full Council.

ALTERNATIVE OPTIONS

Any alternative options would require an amendment to the Council's Constitution to remove the requirement to report to Council.

10.00 a.m.

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CABINET	AGENDA ITEM No. 4
21 JANUARY 2013	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr David Seaton	
Contact Officer(s):	John Harrison, Executive Director Strategic Resources Steven Pilsworth, Head of Strategic Finance	Tel. 452520 Tel. 384564

COUNCIL TAXBASE AND BUSINESS RATES 2013/14

R E C O M M E N D A T I O N S	
FROM : Executive Director Strategic Resources	Deadline date :
Cabinet is requested to:	
<ol style="list-style-type: none"> 1. Endorse the calculation of the Council Tax Base for 2013/14 at a level of 50,158 B and D equivalent properties; 2. Note the estimated Collection Fund deficit as at 31st March 2013 of £351,614; and 3. Approve the use of the provisional National Non Domestic Rates 1 as the basis of the final return for 2013/14 and delegate to the Executive Director Strategic Resources responsibility for approving and returning the final return to the Secretary of State by 31st January 2013. 	

1. ORIGIN OF REPORT

- 1.1 This report forms part of the preparation for setting the council's budget. It needs to be considered so that figures for the tax base, the Collection Fund and the amount of business rates to be collected can be used in setting the Council Tax and notified to other affected authorities.

2. PURPOSE AND REASON FOR REPORT

- 2.1 This report is before Cabinet to consider under its delegated function No 3.2.7. 'to be responsible for the council's overall budget and determine action required to ensure that the overall budget remains within the total cash limit'.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	Yes (Part of budget setting)	If Yes, date for relevant Cabinet Meeting	21 January 2013
Date for relevant Council Meeting	6 March 2013	Date for submission to Government department	11 March 2013

4. INFORMATION RELEVANT TO DECISIONS REQUIRED

Council Tax Base Calculation 2013/14 (Annex A)

- 4.1 The Council Tax Base calculation is part of the budget process. The gross tax base for 2013/14 is estimated at 58,434 Band D equivalents. This is reduced by 1.5% to allow any in year variation from the estimates e.g. for properties not being built or occupied, additional discounts being available or for losses on collection, to give a net council tax base of 57,558 which is 1.6% more than the equivalent taxbase for 2012/13 of 56,651.

- 4.2 The calculations have changed for 2013/14 to reflect the changes to the funding of council tax benefits which effectively reduces the taxbase used for setting and collecting the council tax.
- 4.3 As part of the budget process for 2013/14 the council is also making changes by removing a number of discounts, the main ones being for empty properties and second homes, this has the effect of increasing the taxbase.
- 4.4 The Final taxbase for 2013/14 has therefore reduced to 50,158 and has been calculated in accordance with regulations to account for the receipt of council tax support grant, the introduction of a local council tax benefit system, removing the discounts and other minor adjustments.
- 4.5 The figure of 50,158 Band D equivalents reflects the best estimate, based on the latest factual position. The regulations provide for the Billing Authority's records to be calculated on data as at 30 November 2012, together with a forecast of any changes arising after that date until the end of the relevant financial year, in this case, 31 March 2014.

Collection Fund

- 4.6 The Collection Fund deficit as at 31st March 2013 has been estimated to be £351,614 and this amount is shared between the Council, the Police and the Fire and Rescue authority in proportion to the demands made on the collection fund in the relevant year.
- 4.7 The deficit is used by each of these bodies in setting its budget for the year following the resultant deficit and on this basis the Council have included £291,569 in its budget proposals for 2013/14. The deficit attributable to the Police is £44,814 and to the Fire Authority is £15,231 and these amounts will need to be taken into account in the preparation of those bodies' 2013/14 revenue budgets. These figures are provided for information as the Executive Director Strategic Resources will make the formal calculation on 15th January 2013 and notify the relevant bodies at that time.

Calculation of Non-domestic rate income, relevant shares and notification (NNDR1)

- 4.8 The new system of local government finance which allows local authorities to retain 50% of the total non domestic rates collected nationally requires by virtue of the Non-Domestic Rating (Rates Retention) Regulations 2012, regulation 5(1) (a)-(d) a billing authority to make certain calculations and notify relevant bodies by 31st January each year.
- 4.9 The calculations in question are the total non domestic rate income for the year, the central share and the shares attributable to precepting authorities. In addition the billing authority must notify the Secretary of State and the relevant precepting authorities of the final amounts by 31st January 2013. The provisional NNDR1 was returned by the 7th January 2013 as was required and a copy is attached at Annex B.
- 4.10 The NNDR1 form is completed on the basis of regulations and guidance and it is a requirement that it is signed by the Council's chief financial officer. The form includes all the relevant information required by the regulations and effectively provides the calculations and notification to the Secretary of State.

5. CONSUTLATION

- 5.1 No external consultation has been undertaken.

6. ANTICIPATED OUTCOMES

- 6.1 That Cabinet endorses the calculation of the Council Tax Base, notes the deficit on the collection fund, approves the provisional NNDR1 as the basis for the final return for 2013/14 and delegates the approval and notification requirements for the final NNDR1 for 2013/14 to the Executive Director Strategic Resources.

7. REASONS FOR RECOMMENDATIONS

- 7.1 The Council Tax Base could be set at a higher or lower level. However, this could have the effect of either inflating unnecessarily the amount of Council Tax to be set or setting the tax at a level insufficient to meet the Council's budget requirements. A similar position could arise if the surplus or deficit were set at a higher or lower level.
- 7.2 The calculation and return of the information included in the NNDR1 is a statutory requirement which can be formally delegated to an officer.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 None required at this stage.

9. IMPLICATIONS

- 9.1 This report does not have any implications effecting legal, human rights act or human resource issues.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985):

Local Government Finance Act 1992

Local Government Act 2003

The Local Authorities (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003

The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003.

Council Tax Banding List

PETERBOROUGH CITY COUNCILCOUNCIL TAX BASE FOR TAX SETTING PURPOSES 2013/14

Parish	Number of Properties on Valuation List in Bands									TAXBASE		FINAL
	Council	A	B	C	D	E	F	G	H	TOTAL	GROSS	NET
Ailsworth	9	21	99	40	50	30	7	0	256	242.28	238.64	230.34
Bainton	8	8	9	27	22	19	35	1	129	145.86	143.67	143.71
Barnack	76	104	29	90	80	34	36	1	450	413.08	406.88	377.52
Bretton	3836	639	296	288	194	138	19	1	5411	3645.78	3591.09	3012.24
Castor	52	106	31	58	49	46	35	18	395	380.59	374.89	357.03
City (non-parished)	23245	13214	8774	3521	1479	559	250	16	51058	35884.38	35346.12	30012.27
Deeping Gate	0	22	33	48	46	38	15	0	202	214.97	211.75	208.11
Etton	4	17	8	13	2	8	5	0	57	54.09	53.28	51.07
Eye	777	395	536	223	115	31	14	0	2091	1559.07	1535.68	1382.24
Glinton	129	148	112	99	104	63	32	1	688	624.04	614.68	594.35
Hampton	427	1038	816	1247	771	88	10	1	4398	3715.57	3659.83	3322.28
Helpston	32	90	89	70	80	25	22	0	408	384.63	378.86	371.58
Marholm	1	20	9	12	13	10	10	1	76	77.09	75.94	75.37
Maxey	29	46	39	37	51	57	36	0	295	309.89	305.24	292.35
Newborough and Borough Fen	134	153	249	118	42	26	9	0	731	604.35	595.28	571.05
Northborough	40	177	154	82	70	42	11	1	577	514.45	506.73	488.31
Orton Longueville	2335	1299	515	348	223	102	72	3	4897	3505.04	3452.47	2984.02
Orton Waterville	1559	794	652	540	586	235	78	2	4446	3575.73	3522.09	3230.04
Peakirk	17	22	35	41	22	32	9	0	178	174.83	172.21	172.16
Southorpe	0	0	6	10	14	12	15	1	58	72.56	71.47	73.46
St Martins Without	1	3	2	4	0	3	2	2	17	19.19	18.91	19.46
Sutton	0	0	0	7	6	23	12	2	50	69.11	68.07	69.09
Thorney	260	390	161	122	55	46	27	0	1061	839.69	827.09	765.33
Thornhaugh	3	21	15	9	17	10	12	2	89	92.93	91.53	88.44
Ufford	17	3	7	7	19	32	19	3	107	123.37	121.52	121.31
Upton	0	14	0	4	2	3	2	0	25	24.11	23.75	22.57
Wansford	6	28	23	24	37	56	40	0	214	246.57	242.87	239.98
Wittering	784	248	66	32	4	2	3	4	1143	753.72	742.42	723.11
Wothorpe	2	4	18	21	17	20	46	7	135	167.41	164.90	159.32
Totals	33783	19024	12783	7142	4170	1790	883	67	79642	58434.39	57557.88	50158.11
2012/2013	33712	18628	12575	7030	4109	1768	852	67	78741	57513.35	56650.65	



Department for
Communities and
Local Government

**NATIONAL NON-DOMESTIC RATES RETURN 1
NNDR1 2013-14**

Please e-mail to : nndr.statistics@communities.gsi.gov.uk

Please enter your details after checking that you have selected the correct authority name.

Please check the figures shown in the cells with a blue border and enter your own figures if you disagree with those suggested.

**A provisional version of the form should be returned to the Department for Communities and Local Government by
Monday 7 January 2013**

The final version of this form, including a signed copy, must also be sent to the Department for Communities and Local Government by
Thursday 31 January 2013

Select your local authority's name from this list:

Pendle
Peterborough
Plymouth
Poole
Portsmouth
Preston

Check that this is your authority :

Peterborough

Check that this is your E Code :

E0501

Local authority contact name :

David Moss

Telephone number of local authority contact :

01733 452218

Fax number for local authority contact :

01733 452579

E-mail address of local authority contact :

lbsystems@peterborough.gov.uk

Ver 1.3

1. Number of hereditaments on the rating list on 30 September 2012		5,549
2. Aggregate rateable value on the rating list on 30 September 2012		£ 227,005,535
GROSS CALCULATED RATE YIELD		
3. Enter line 2 x small business non-domestic rating multiplier (0.462)		£ 104,876,557.17
MANDATORY RELIEFS		
Small business rate relief		
		£
4. Additional yield generated to finance the small business rate relief scheme		1,854,304.58
5. Cost of small business rate relief for properties within billing authority area		2,575,116.48
6. Net cost of the small business rate relief (Line 5 minus Line 4)		720,811.90
7. Cost of relief to charities		4,818,117.03
8. Cost of relief to Community Amateur Sports Clubs		53,882.40
9. Cost of relief for rural general stores, post offices, public houses, petrol filling stations and food shops		13,122.07
10. Cost of relief for partly occupied premises		0.00
11. Cost of relief for empty premises		1,319,510.33
12. Total mandatory reliefs (Sum of lines 6 to 11)		6,925,443.73
DISCRETIONARY RELIEFS		
13. Cost of relief to charities		259,915.52
14. Cost of relief to non-profit making bodies		5,004.37
15. Cost of relief to Community Amateur Sports Clubs		2,531.62
16. Cost of relief for rural general stores, post offices, public houses, petrol filling stations and food shops		5,192.32
17. Cost of relief to other rural businesses		0.00
18. Other Section 47 reliefs (Localism Act discounts)		0.00
19. Total discretionary reliefs (Sum of lines 13 to 18)		272,643.83
20. Gross Rate Yield after reliefs (Line 3 minus lines 12 & 19)		97,678,469.61
21. Estimate of 'losses in collection'		1,074,463.17
22. Allowance for Cost of Collection		275,536.62
23. Special Authority Deductions - City of London Offset		0.00

Ver 1.3

Section 2

Enterprise Zones

24. Estimated level of discount to be awarded in 2013-14		£	0.00
25. Estimated value of non-domestic rates in the Enterprise Zone area in 2013-14			
26. Enterprise Zone baseline			
27. Total estimated value of business rates to be retained in 2013-14 (Line 25 minus line 26)			0.00

New Development Deals

28. Estimated value of non-domestic rates in the New Development Deals area in 2013-14			
29. New Development Deals baseline			
30. Total estimated value of business rates to be retained in 2013-14 (Line 28 minus line 29)			0.00

Renewable Energy Schemes

31. Total estimated value of business rates to be retained in 2013-14			
32. Net Rate Yield excluding transitional arrangements and rate retention (Line 20 minus the sum of lines 21 to 23, 27, 30 & 31)			96,328,469.82

Rate retention adjustments

33. Estimate of the change in rateable value between 1 October 2012 and 30 September 2013			-2,270,055.00
34. Estimate of the change in receipts as a result in the change in rateable value (line 33 times the multiplier)			-1,048,765.41

This equates to a percentage change of % -1.00

35. Local authority's estimate of adjustment due to appeals			4,883,923.48
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36. Net Rate Yield excluding transitional arrangements but after rate retention adjustments (Line 32 plus lines 34 and minus line 35)			90,395,781.00
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Section 3

Transitional arrangements

37. Addition revenue received because reduction in rates have been deferred	113,687.11		
38. Revenue foregone because increase in rates have been deferred	1,582,919.18		
39. Net cost of transitional arrangements (Line 38 minus line 37)			1,469,232.07
40. Net Rate Yield after transitional arrangements and rate retention (Line 36 minus line 39)			88,926,549.00

NNDR Summary for : Peterborough

These figures show the percentage shares of the NNDR you estimate your authority will collect in 2013-14. They are based on line 36. See the *Tier Split* tab for full information

Amount of NNDR to be paid to central government	£	45,197,891.00
Amount to be retained by Peterborough under the rates retention scheme		44,293,933.00
Amount to be passed to Cambridgeshire Fire Authority		903,958.00

Certificate of Chief Financial Officer

I certify that the entries in lines 3, 12, 19, 20, 36, 39 and 40 of this form are the best I can make on the information available to me and that the figures given in lines 1 and 2 used in the calculating the amount shown in lines 36 and 40 are, to the b

Chief Financial Officer :

Date :

CABINET	AGENDA ITEM No. 5
21 January 2013	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr David Seaton, Cabinet Member for Resources	
Contact Officer(s):	John Harrison, Executive Director Strategic Resources	Tel. 452398

LOCAL COUNCIL TAX SUPPORT SCHEME

RECOMMENDATIONS	
FROM : Executive Director Strategic Resources	Deadline date : 21 January 2013
That Cabinet recommends to Full Council on 30 th January 2013 the adoption of the Local Council Tax Support scheme for Peterborough, including the proposed 30% reduction in benefit for working age claimants and the draft scheme documentation.	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to Cabinet following the consultation on proposals made by Cabinet on 24th September 2012, including discussion at the Sustainable Growth and Environment Capital Scrutiny Committee on 8th November 2012.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to make a recommendation to Full Council on the Council Tax Support Scheme to be implemented in Peterborough.
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1 which states to take collective responsibility for the delivery of all strategic executive functions within the council's major policy and budget framework and lead the council's overall improvement programme to deliver excellent services.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	Yes	If Yes, date for relevant Cabinet Meeting	21 st January 2013
Deadline for relevant Council Meeting	30 th January 2013	Date when these changes will apply from	1 April 2013

SUSPENSION OF CALL-IN

Subject to the recommendations being approved at this Cabinet meeting, it will be necessary to waive the call-in procedure and for the recommendations to proceed to Full Council on 30th January for decision.

This decision is urgent because the Council is required to approve its local council tax support scheme by the end of January. Any delay caused by the call-in process

would significantly prejudice the Council's interest because failure to do agree by the end of January would mean that the Council has to use the default scheme, which would see the Council facing additional costs of over £2m. If the recommendation is called in, this could hinder the Council's ability to have the scheme approved at Full Council by the end of January.

Cabinet could not consider making the recommendation until the Government had provided notification of the level of grant to be provided for the scheme. This was only provided as part of the provisional local government finance settlement that was not received until 19th December 2012. The level of grant does differ from the original consultation and has changed the scheme being recommended compared to that which was consulted on.

The Council's Monitoring Officer is aware of the intention to waive the call-in period, and the Chairman of Sustainable Growth and Environment Capital Scrutiny Committee has agreed to waive the call-in period.

4. BACKGROUND TO COUNCIL TAX SUPPORT

Executive Summary:

- 4.1 In its 2010 Spending Review the Government announced that it would localise support for Council Tax from April 2013, and at the same time reduce expenditure by 10%. This means that there will no longer be a nationally governed Council Tax Benefit (CTB) scheme and each Council will set their own schemes. However, Pensioners will be protected under these new arrangements and CTB for this group will continue to be subject to national controls, meaning pensioners will not have their CTB reduced by these legislative changes.
- 4.2 The Council's Medium Term Financial Strategy (MTFS) approved by Council in February 2012 was based on a local scheme being adopted and resulting in no additional pressure on the council's budget.
- 4.3 It was originally estimated that the gap between the grant provided to the Council, and the likely grant received by the Council would be £2.8m, requiring a 35% reduction in benefit. It was on this basis that the original consultation was undertaken. As outlined above, the provisional local government finance settlement was received on 19th December 2012. This has outlined a slightly higher level of grant for the Council. This has reducing the gap to £2.4m, and would require a benefit reduction of 30%. All figures quoted in this report are based on these updated figures.
- 4.4 Cabinet has devised and consulted on a local CTB scheme and this requires Full Council approval before 31 January 2013, otherwise the default scheme will be implemented, leading to the Council having to meet the full costs of the reduced grant and facing a financial cost of £2.4m.
- 4.5 It is clear that the biggest difference that the Council can make to help people on benefit is to help them into work and off benefit. One of the key priorities of this Cabinet is to deliver growth to our city, increasing opportunity and employment prospects for all. It is essential that we continue this drive, and in turn enable as many as people as possible to have the chance to come off benefit.
- 4.6 This report contains the following sections:

- Background and financial impact (section 4)
- Consultation approach and feedback (section 5)
- Outline of Government transition proposals (section 6)
- Summary of recommended scheme (section 7)
- Impact of the scheme and mitigating action (section 8)
- Implementation and communications plan (section 9)

Background

- 4.7 Council Tax Benefit (CTB) is the means tested way of reducing the Council Tax Bill for those on low incomes. Effectively the household pays less council tax (sometimes none) and the Government pays grant to the council to cover it.
- 4.8 CTB expenditure has increased nationally from £2bn in 1997/98 to £4.3bn in 2010/11. The Government announced in the Spending Review 2010 that it would localise support for council tax making Councils responsible for local schemes and reducing the grant by 10%, saving £410m nationally in England.
- 4.9 Councils would be responsible for determining, through their local scheme, how these savings are made. If councils do not make savings through the scheme, they will need to meet the cost of this elsewhere in their budgets.
- 4.10 Council Tax Benefit (CTB) becomes Council Tax Support (CTS) from April 2013.
- 4.11 Draft regulations have now been laid before Parliament and schemes must fully protect pensioners and so the impact is met by 'working age' claimants. The documents in the appendix are based upon the draft regulations. It is not expected that the final regulations will have any changes, but if necessary updated documents may need to be provided to Council.

Financial Impact for Peterborough:

- 4.12 In Peterborough there are almost 18,000 Council Tax Benefit claimants (24% of households) which cost around £12m in 2010/11.
- 4.13 The Medium Term Financial Strategy (MTFS) approved by Council in February 2012 was based on a local scheme being adopted and therefore no additional pressure being placed on the council's budget i.e. any reduction in grant would be fully met through changes in the benefit scheme, rather than cuts being made in services elsewhere across the Council.
- 4.14 It was originally expected that the 10% reduction in grant would mean a funding gap of around £1.2m (10% of the £12m bill). However, recent Government consultation documents on the proposals have outlined that the 10% reduction is based on the 2013/14 forecast position which includes a reduction in the number of benefit claimants.
- 4.15 The Government claims that the reduction in funding should be around 10% of the benefit bill. However this assumes that the number of people claiming this benefit, and hence the cost of it, reduces by next year. Many parts of the country, including Peterborough, are seeing costs of benefit increasing. The Council estimate that the grant reduction will see a shortfall of nearer 20%. The gap between grant and the benefit bill for 2013/14 is estimated to be £2.4m.

- 4.16 Failure to devise and implement a local scheme by 31 January 2013 would result in the Department for Communities and Local Government (DCLG) 'default scheme' being used by the Council. This scheme mirrors the current CTB scheme. If this were to happen Council would need to find the £2.4m of savings from elsewhere in the Council budget (some of this sum would relate to Police and Fire share of council tax).
- 4.17 In Peterborough 40% of claimants and 38% of the CTB bill relates to pensioners. As Government legislation protects this group, the 20% loss in CTB funding has to be met by the remaining 60% of claimants. In order to achieve the strategy approved in the MTFs (as outlined in 4.7 above), this would require a reduction in benefit of 30%.
- 4.18 Cabinet approved this approach as the basis for consultation at their meeting of 24 September 2012 (with the consultation undertaken on the original estimate of 35%). The consultation also included options to fully protect groups, such as the disabled. Such protection would mean higher reductions for working age claimants to keep the scheme self-funding in line with the MTFs strategy.

5. CONSULTATION APPROACH AND FEEDBACK

- 5.1 Following approval, an intensive period of public and stakeholder consultations ran for six weeks from 25 September to 5 November 2012.
- 5.2 The homepage of the Council's website included a link to the new council tax support page which included details of the scheme, a frequently asked questions sheet and the questionnaire.
- 5.3 The following groups identified through the Equalities Impact Assessment have been engaged with directly and resulted in including drop-in sessions so the changes could be explained in person:
- The general public, through drop-in sessions so the changes can be explained in person
 - CAB Peterborough
 - Registered Social Landlords & Private Landlords who attend our forums
 - DIAL (services to people with disabilities)
 - AGE UK
 - Tackling Poverty group
 - Welfare Reform Action Group
 - Children & Families Commissioning Partnership
 - Tackling Worklessness in Peterborough
 - PCVS – Peterborough Council for Voluntary Service
- 5.4 Consultation also took place with the Community Cohesion Manager, although the Equalities Impact Assessment did not identify that black or minority ethnic groups would be adversely affected by these changes.
- 5.5 The project team also engaged with Job Centre Plus where their relationship manager has informed front line staff of the proposed changes and consultation.
- 5.6 Drop-in sessions were held at each of the 10 libraries where residents could ask

questions and were encouraged to complete the survey. Details of these are outlined below:

- Central Library – Monday 1 October (12:00 to 14:00)
- Hampton Library – Tuesday 2 October (09:30 to 11:30)
- Stanground Library – Tuesday 2 October (12:00 to 14:00)
- Werrington Library – Monday 8 October (11:00 to 13:00)
- Bretton Library – Monday 8 October (14:00 to 16:00)
- Dogsthorpe Library – Tuesday 9 October (10:00 to 12:00)
- Eye Library – Wednesday 17 October (13:00 to 15:00)
- Thorney Library – Wednesday 17 October (16:00 to 18:00)
- Woodston Library – Thursday 18 October (09:30 to 11:30)
- Orton Library – Thursday 18 October (12:00 to 14:00)

5.7 Benefit notification letters were also amended during the period of consultation to include an additional sheet advising customers of the changes and how they can have their say. Using this approach **6,145** separate notifications have been issued to benefit customers alerting them to the changes and giving them the opportunity to comment.

5.8 Discussions also took place with Finance officers from the Police and Fire Authority who would be affected by the proposals (as the City Council collects council tax on their behalf).

5.9 The proposals were discussed by Sustainable Growth and Environment Capital Scrutiny Committee on 8th November 2012. An extract from the draft minutes is attached as appendix 1.

5.10 **Survey Results:**

Residents have been encouraged to 'have their say' by completing an on-line survey, copies of which were made available in hard format from The Town Hall, Bayard Place and the Libraries.

There were a total of **93 responses**; 46 online and 47 hard copies of the survey were completed with a breakdown of the results shown below (with detailed comments included in appendix 2):

1. Do you think that Peterborough City Council should continue to help people on low income by reducing their council tax bill?

Yes – 81.5% (75)

No – 18.5% (17)

(1 did not answer)

2. Do you think that the fairest way to achieve the savings required is an across the board 35% reduction in the new council tax support scheme?

Yes – 38.5% (35)

No – 61.5% (56)

(2 did not answer)

3. Do you think certain classes of persons should be protected from the reduction outlined and should include claimants where:

Yes, Severe Disability premium – 23.3% (50)

Yes, Enhanced Disability premium – 19.1% (41)

Yes, Disabled Child premium – 21.4% (46)

Yes, Disability premium – 21.4% (46)
No – 14.9% (32)
(6 did not answer)

4. Do you think that the maximum amount of council tax support should be limited to £23.15 per week (Band C):

Yes – 46.7% (42)
No – 53.3% (48)
(3 did not answer)

5. Do you think that the minimum amount of council tax support should be limited to £2.00 per week:

Yes – 48.9% (43)
No – 51.1% (45)
(5 did not answer)

6. Do you think that the capital limit for claiming council tax support should be reduced from £16,000 to £6,000:

Yes – 65.9% (60)
No – 34.1% (31)
(2 did not answer)

7. Do you think second adult rebate should still be part of council tax support:

Yes – 41.6% (32)
No – 58.4% (45)
(16 did not answer)

8. Do you have any comments about the new council tax support scheme:

Yes – 46.3% (38)
No – 53.7% (44)
(11 did not answer)

9. Are you are any partner a pensioner:

Yes – 17.6% (16)
No – 76.9% (70)
N/a – 5.5% (5)
(2 did not answer)

10. Do you currently claim council tax benefit:

Yes – 35.6% (32)
No – 58.9% (53)
N/a – 5.6% (5)
(3 did not answer)

- 5.11 The only conclusive (70%+) response was to question 1; 81.5% think that Peterborough City Council should continue to support people on low income by reducing their council tax bill. The responses to the other questions are inconclusive and there is no clear indication of any preference either way.
- 5.12 Given that any alternative approach would need to be funded from making reductions in services elsewhere, it was important that the consultation was open to all residents in Peterborough, not just those in receipt of benefit. This does seem to have helped

contribute towards the even split of responses, with those in receipt of benefit opposing the changes, but those who pay full council tax being in favour.

6. ADDITIONAL TRANSITIONAL GRANT FUNDING ANNOUNCED IN OCTOBER

- 6.1 On 18th October 2012 the Government announced that there will be a transitional grant scheme with an additional £100m of funding made available to Councils. The criteria for applying for this additional funding is:
- (i) The overall reduction for those claimants currently receiving 100% council tax benefit must not exceed 8.5% of their net council tax liability
 - (ii) The benefit taper used for calculating entitlement must not exceed 25%
 - (iii) There is no sharp reduction in support for those entering work
- 6.2 To limit the reduction for these claimants to 8.5% would cost £1.7m. Peterborough's allocation of the transitional grant scheme is just £247,083, leaving a shortfall in funding of over £1.4m. It is clear that the grant does not meet the costs of lowering the reduction from 30% to 8.5%
- 6.3 This additional funding has only been made available for year 1 which means there would be £1.4m to find in 2013/14 and £1.7m per year after that on an ongoing basis.

7. PROPOSED NEW SCHEME

- 7.1 The Medium Term Financial Strategy (MTFS) approved by Council in February was based on a local scheme being adopted and therefore no additional pressure on the council's budget i.e. any reduction in grant would be fully met through changes in the benefit scheme, rather than cuts being made in services elsewhere across the Council. Given the unacceptable impact that such cuts could have, it is considered that this approach should hold.
- 7.2 It is clear that the transitional grant does not cover the costs of limiting the benefit reduction to 8.5% and is only provided for one year anyway. The Council would face significant costs if following this approach and as such, in line with the approach in 7.1 above, will not do so.
- 7.3 Some Councils are using income from technical council tax reforms (reducing discounts in some areas) to support their council tax schemes. In the same MTFS, Council approved using this income to help support the overall council budget. Those councils who are using this income to support their local council tax support scheme will not have it to support their overall budget and so will have to cover that gap by reducing services (something this Council is keen to avoid as outlined above).
- 7.4 The original consultation proposals included an option to protect recipients of disability premiums, in the same manner as pensioners, so that these households had no reduction in benefit. Such protection would mean higher reductions for working age claimants to keep the scheme self-funding in line with the MTFS strategy. Rather than the 30% reduction proposed, the reduction in benefit for working age claimants would be 7.5% higher at 37.5%. If the protection were not covered by working age claimants, it would cost the Council around £0.5m to protect all.
- 7.5 The number of households receive disability premiums as part of their council tax benefit is outlined below. Also included is the cost of protecting recipient each

individual premium (rather than the total cost of protecting all of them as outlined in 7.4 above). It should be noted that households can claim more than one of these benefits, so the numbers do not necessarily relate to individual households (i.e. there are not 2,978 households in receipt of these premiums as one household could be in receipt of disability premium and Enhanced Disability premium). This also means that the total cost of protecting all four premiums of £0.5m is less than the sum of each individual element:

- 1,542 claim the Disability premium (cost of £358k, or 35% reduction in benefit to protect)
- 355 claim the Disabled Child premium (cost of £88k, or 31% reduction in benefit to protect)
- 570 claim the Enhanced Disability premium (cost of £141k, or 32% reduction in benefit to protect)
- 511 claim the Severe Disability premium (cost of £109k, or 31.5% reduction in benefit to protect)

7.6 Given the additional impact on working age claimants, or the costs to the Council if funded directly, it is not proposed that the protection is included. It should be noted that when the means testing is undertaken to assess whether the claimant is eligible for benefit the applicable amount is increased by the amount of any disability premium that the disability benefit attracts. As such the system does already have an element of protection built in for such claimants. The impact on such claimants will be the same as for other households in receipt of benefit, as outlined in the examples in paragraph 8.1 below. It should be stressed that this only impacts on council tax benefit, it has no impact on any other benefits received.

7.7 The Council has lobbied Government regarding the approach to funding the scheme and in particular the assumption that the costs of benefit are reducing. The Government has used more up to date forecasts and as such there has been a small improvement in the level of grant allocated to the Council. Whilst this grant could be used to support overall services, it is proposed to use it for the Council tax support scheme. As a result the proposed reduction in benefit can be lowered from 35% to 30%.

7.8 It is clear that the biggest difference that the Council can make to help people on benefit is to help them into work and off benefit. One of the key priorities of this Cabinet is to deliver growth to our city, increasing opportunity and employment prospects for all. It is essential that we continue this drive, and in turn enable as many as people as possible to have the chance to come off benefit. On balance it is considered that it is better to utilise resources to drive forward this growth agenda, rather than use it to top up benefit levels.

7.9 A summary of the scheme documentation is included in appendix 2, with the detailed scheme documentation in appendix 3.

7.10 Councils have always had discretion to disregard certain income relating to armed forces and war pensions when undertaking the means testing for council tax benefit. Peterborough City Council has exercised this discretion. The documentation for the new scheme will need to reflect this to ensure that this practice continues.

8. IMPACT OF THE NEW SCHEME & MITIGATING ACTIONS

Impact of the new scheme

8.1 Analysis of our existing council tax benefit records shows that under the new council tax support scheme there will be the following impact:

- 8,437 households who previously received 100% council tax benefit will now have something to pay
- 2,458 households will be paying more council tax than before

Examples of how this would impact are outlined below:

- Currently Band A council tax in the city (including Police and Fire) is £908. A household in receipt of 100% benefit would currently pay no council tax. In future they would pay 30%, or £272 per year (£5.24 per week). They would still receive £636 in council tax benefit
- Currently Band B council tax in the city (including Police and Fire) is £1,059. A household in receipt of 50% benefit would currently pay council tax of £530, and receive benefit of £530. In future they would pay an extra £159 per year (£3.05 per week), taking their total payment to £689 per year. They would still receive £371 in council tax benefit
- The average amount paid in benefit is currently £730 per year. This would reduce by £219 to £511 per year. As such the average household in receipt of benefit would pay £4.21 per week extra
- Pensioner households are protected and hence unaffected by the proposals

Mitigating Actions

8.2 Although Pensioners will not be affected, the Council recognises the significant impact the changes will have on working age claimants of CTB in Peterborough.

8.3 The Council currently works in a number of locations to support people in Peterborough, covering two main areas:

- Helping people get back into work and off benefit
- Helping alleviate the impacts of poverty on individuals and households

The majority of these activities are led by the Neighbourhoods teams within Operations.

8.4 The following list details some of these groups and activities:

Tackling Worklessness in Peterborough group (TWIP) - this group pulls together a wide range of partners, including DWP, to address worklessness and benefits dependency.

Financial and debt advice – the Council continues to provide funding to a number of voluntary sector, accredited information and advice agencies who focus on debt and financial advice to people who are in need. The main provider for this service is Citizens Advice Peterborough, but DIAL (for services to people with disabilities) and

Age UK are also funded to provide similar services. The Council's proposal is to focus all of our investment in the voluntary sector from 2013/14 into organisations that can directly support individuals and families affected by the welfare reform.

Tackling Homelessness – the Council's entire Strategic Housing team is structured around preventing homelessness. In the main, the work of the team supports people who are already housed but who, for one reason or another, are finding it difficult or are unable to maintain that position. For example, the Supporting People programme provides housing related support for people with mental health issues, elderly or disabled people, young people leaving care and many more with the aim of ensuring they can remain living independently. The Care and Repair Service provides direct support to adapt properties to ensure vulnerable people can remain living at home. Our Housing Needs service manages the housing register on behalf of the city's social landlords, and allocates housing to those who need it most. In all cases, the client groups of people who are being supported by the Housing teams will be affected most by some of the reforms, and our preventative and proactive model of service delivery will mitigate against further decline.

Fuel Poverty – part of the Strategic Housing team's focus is to tackle fuel poverty. It is a basic human right to have access to warm affordable and secure housing yet some people aren't able to keep their homes warm leading to illness and other problems. Every increase in energy costs pushes more people into fuel poverty, and our team manages a range of initiatives, with partners, to address this problem locally (including home energy grants, insulation schemes, home adaptations, external cladding programmes etc).

The Council is also leading a pioneering energy switching scheme, that looks to make households savings on their energy bills. This scheme is open to all Peterborough residents, including those in receipt of benefit at the link below:

http://readytoswitch.ichoosr.com/Product/index.rails?actionId=252&utm_medium=web&channel=Peterborough

Tackling Poverty – Neighbourhoods and Children's Services jointly lead on the council's new Tackling Poverty strategy and action plan. This is aimed at identifying those who are in poverty or are at risk of being pushed into poverty, and implementing a range of different, practical short and long term measures to support them. Seven distinct but linked strands form the action plan, ranging from short term solutions such as Food Banks and Credit Unions through to longer term goals such as apprenticeships and digital inclusion.

Cohesion – risks associated with reform include the rising tension amongst communities and the potential increase in social issues such as shoplifting. The Council has developed a comprehensive community cohesion action plan that supports groups of people who might be vulnerable to reform, such as young NEET (not in education, employment or training) people. This approach builds on the 'After the Riots' report from the unrest experienced elsewhere in the country last year.

Welfare Reform Action Group – this new cross-departmental and multi-agency action group has been formed to identify and lead on addressing the impacts of reform. The group is currently sharing data across agencies to fully understand who might be affected so that proactive contact can be made and appropriate, rapid solutions implemented.

Children and Families Commissioning Partnership – this new collaborative commissioning Board brings together all of the officers and agencies who support vulnerable children and families, with the aim of making joined up and evidence based commissioning decisions with the end user as the core focus.

Mortgage Scheme - this scheme is designed to help first time buyers who have often stated that raising enough money for a deposit is the biggest challenge they face when looking to take their first steps onto the property ladder. Lloyds TSB and the Council joined forces to help first-time buyers purchase a home with a deposit of just five per cent. First time buyers will put down five per cent of the property price, and the Council will provide a cash backed indemnity of up to 20 per cent as additional security. The local authority then earns interest on this amount. The first time buyer owns the property in its entirety and will have access to a range of products at a lower rate of interest than would normally be available for this level of deposit.

9. IMPLEMENTATION AND COMMUNICATIONS PLAN

9.1 Subject to approval by Cabinet, it is anticipated that the new scheme will receive approval at Full Council on Wednesday 30th January. Whilst the scheme will not take effect until 1st April 2013, it is essential that the period prior to this is used to raise awareness of the new scheme, and what support is available to households. Upon approval of the new Council Tax Support Scheme the following actions will be taken:

9.2 A press release and other communications will be issued announcing the new scheme.

9.3 A number of drop-in sessions will be arranged with our stakeholder partners to offer this help and advice. The Stakeholders invited to be involved will include:

- CAB Peterborough
- Registered Social Landlords & Private Landlords who attend our forums
- DIAL (services to people with disabilities)
- AGE UK
- Tackling Poverty group
- Welfare Reform Action Group
- Children & Families Commissioning Partnership
- Tackling Worklessness in Peterborough
- PCVS – Peterborough Council for Voluntary Service

9.4 Each of the estimated 11,000 working age council tax benefit claimants directly affected by this new scheme will be written to advising them of this change and where help and advice can be found.

9.5 Liaison will be undertaken to ensure that the 2013/14 council tax bills are issued with this updated information and that the customer services and back office staff have received sufficient training on this change.

10. REASONS FOR RECOMMENDATIONS

10.1 The regulations require Full Council to approve the new Council Tax Support scheme. Any alternative to the proposed reduction in benefit would leave the Council facing significant additional costs.

11. IMPLICATIONS

11.1 Elected Members

Further to this Cabinet meeting this proposal will be presented to Full Council on 30 January 2013 and all Elected Members will be asked to approve the scheme.

Members must have regard to the advice of the Section 151 Officer. The Council may take decisions which are at variance with this advice, providing there are reasonable grounds to do so.

11.2 Financial

11.2.1 The likely cost of the scheme has been forecast, and the scheme proposed covers that forecast cost. However it should be noted that the actual costs of council tax benefit could differ from this forecast due to the following factors:

- Extra claimants coming through (increased cost)
- Working age claimants in receipt of benefit move into the pensioner bracket and hence become protected (increased cost)
- Claimants coming off benefit (reduced cost)
- Levels of collection of council tax (increased cost if collection lower)
- Level of council tax

11.2.2 No account of increased demand for support is taken into account when allocating the grant. Also the Council cannot amend the scheme in year due to changes in the cost of benefit. As such the Council (and Police and Fire Authorities) would bear any extra cost. Conversely, if the costs of benefit can be reduced (for example through getting more people into work) then this would provide a financial benefit to the Council (and Police and Fire Authorities). A modest level of protection is assumed in the cost estimate against the factors.

11.2.3 The estimate is based on no increase in council tax. If the position agreed by Council as part of the budget setting differs from this, it will be necessary to include the cost impact in the budget agreed at that time.

11.2.4 The Council will need to revisit the scheme each year, including reviewing the overall costs of benefit.

The Council will also receive funding for the increased administration cost of the new council tax support scheme, although it is not yet clear whether this will be sufficient to cover all costs of administering the new scheme.

11.3 Legal Implications

The introduction of the localised Council Tax Support Scheme is as a result of the Local Government Finance Bill 2012, and a local scheme must be implemented by 31 January 2013.

11.4 **Human Resource Implications**

It is anticipated that the introduction of Council Tax Support will lead to an increase in the number of customers who contact the council. These contacts will be managed by Serco who have been involved in the discussions thus far.

Shared Transactional Services staff at Manor Drive and Customer Services staff at Bayard Place will require training ahead of the 1 April 2013 implementation of the new scheme as outlined in section 8 of this report.

11.5 **Risk Management**

The change from Council Tax Benefit to Council Tax Support presents a risk for the council and the precepting bodies (Fire & Police), as in future they will have to meet the financial impact of any increased demand and lower council tax collection rate.

The council and its precepting partners will need to closely monitor local social and economic changes, and factor the impact into the financial planning. This may include a need to revisit the scheme after year one.

11.6 **Equality and Diversity**

The impact of the new scheme needs careful consideration throughout the consultation and implementation stages. A thorough consultation and engagement process was designed to support this.

An initial and full Equalities Impact Assessment (EIA) together with an action plan has been developed, updated and published on the website as with all other EIA's.

12. **BACKGROUND DOCUMENTS**

12.1 **Link to supporting information:**

DCLG – Localising Council Tax Support:

<https://www.gov.uk/government/organisations/department-for-communities-and-local-government/series/localising-council-tax-support>

APPENDICES

- Appendix 1 Extract from draft unapproved minutes of a meeting of the Sustainable Growth And Environment Capital Scrutiny Committee held at the Forli Room - Town Hall on 8 November 2012
- Appendix 2 Comments made in consultation responses
- Appendix 3 Summary of Council Tax Support Scheme
- Appendix 4 Detailed Council Tax Support Scheme

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APPENDIX 1 - EXTRACT FROM DRAFT UNAPPROVED MINUTES OF A MEETING OF THE SUSTAINABLE GROWTH AND ENVIRONMENT CAPITAL SCRUTINY COMMITTEE. HELD AT THE FORLI ROOM - TOWN HALL ON 8 NOVEMBER 2012

ITEM 8 - Council Tax Support Scheme Consultation

The report informed the Committee on the proposed Council Tax Support Scheme that would replace Council Tax Benefit on 1 April 2013. The Head of Corporate Services introduced the report highlighting the following:

- Current position and legislative changes
- Financial impact for Peterborough
- Options available to the Council
- Impact of the proposed new scheme and mitigating actions
- Consultation approach and feedback
- Survey results

The scheme would need to be approved by Full Council by the end of January 2013.

Questions and observations were made around the following areas:

- Members sought clarification on the following statement in the report "Consultation has also taken place with the Community Cohesion Manager, although the Equalities Impact Assessment did not identify that black or minority ethnic groups would be adversely affected by these changes". *The Project Manager informed Members that when the Equalities Impact Assessment took place different groups had been looked at that might be affected by the 35% reduction in benefits. This was an across the board reduction for anyone that was of working age excluding anyone of pensionable age and it was identified that the black and minority ethnic groups would not be adversely affected. It was however felt that engagement with the Community Cohesion Manager should take place to go through the proposals in detail. As a result officers were signposted to the Peterborough Council for Voluntary Service (PCVS) as a point of contact to disseminate information across various groups.*
- Members noted that only 93 people had completed the survey and wanted to know if all avenues of communication had been exhausted to ensure the message regarding the changes had reached everyone who might be affected. *Members were advised that in addition to the groups that had been engaged with an additional notification letter had been sent out to approximately 6000 people who claimed benefit and had a change of circumstance during the consultation period. Officers felt confident that a large range of groups had been contacted about the change. Liaison with other authorities had indicated that the overall volume of responses in other Councils had been low. Drop in sessions at the library and Bayard place had been successful.*
- Members were concerned at the low number of responses and wanted to know how much credence was being put on the results of the consultation. *Members were informed that every effort had been made to engage with as many people as possible. Any communication that the benefit team had with people in receipt of benefits had included information on the changes. Even though the response was low the results of the consultation were inconclusive with a fairly equal split between people on benefits who were not in favour of the changes and those paying full council tax and not on benefits who were in favour. It would be the responsibility of Cabinet and Council to make a decision based on their judgement and the limited feedback received.*
- The report mentions Fuel Poverty and a range of initiatives on offer to help people tackle fuel poverty. How would people find out about these initiatives? *The Head of Corporate Services advised that information regarding these initiatives could be obtained from the Strategic Housing team.*

- What other alternative mitigating options had been considered other than those listed in the report? *Members were informed that the Government were currently consulting on a range of 'technical discounts' on council tax for example if a property was empty a lower charge of council tax may be paid. The 'technical discounts' would be considered once they had been confirmed. The ability of councils across the country to close the gap through 'technical discounts' varied greatly. Councils such as Ipswich and Cambridge City found that removing all of the discounts would offset the entire issue. Other councils including Peterborough found that by removing the discounts it would not close the gap.*
- The Head of Corporate Services advised Members that people who were currently in receipt of 100% Council Tax benefit would under the new scheme have to pay something and this would have to be managed very carefully. Those people would be given as much support as possible.
- Members were concerned about how those people who were in receipt of benefits and had long term health issues and people living below the poverty line would manage if they had to make extra payments. Members felt it was the council's duty to minimise the impact on those people.
- Had consideration been given to the longer term impact of the scheme whilst taking into account the changing demographics, population growth and increase in new arrivals to the city. *Members were informed that two elements in particular had been looked at in this regard and they were; if there would be any increased take up of benefit and also given that pensioners were exempt would there be an increase in numbers of pensioners moving into the exempt bracket. The council would be monitoring the impact of the new scheme and collection rates to see whether the scheme would need to be revised on an annual basis. If a change to the scheme was required it would be brought back through the approval process.*
- Had the council made any representations to the Government with regard to the impact that the new scheme would have on Peterborough. *Members were informed that there had been a consultation on the proposed new scheme which closed in September. Members were advised that representations had been made but no response had been received.*
- What would the overall impact be on people when the Universal Credit which was a National Scheme and the local Council Tax Support Scheme were both introduced? *The Head of Corporate Services informed Members that he was working with the Head of Neighbourhood Services on Welfare Reform and looking at the impact of the proposed changes. It was too early to say what this impact would be.*
- Councillor Thulbourn who had recently completed some research on the impact of the new scheme felt that the group of people that would be impacted the most by the new scheme would be those families that were working and receiving benefits. The impact may mean that they would have to stop work.

The Chair thanked the Head of Corporate Services for an informative presentation.

ACTION

The Committee requested that the Head of Corporate Services look at solutions to reduce the impact of the new Council Tax Support Scheme on the following groups:

- people who were working and receiving benefits
- disabled people

APPENDIX 2 – COMMENTS MADE IN CONSULTATION RESPONSES

1. Do you think that Peterborough City Council should continue to help people on low income by reducing their council tax bill?

- It is your duty to help the poor! Otherwise the poor help themselves, to your money + property! Wouldn't that put up the Police part of the rates!? It's keeping crime down! Look at the crime figures for the 19th + 20th centuries! How would it be if those figures were 100 to 1000 times worse??
- But depends on what is considered low income
- People on low income unable to pay would only result in county court judgement and still no payment
- Although I agree people on pensions should have help I do not believe people who have been out of work for more than a year should have help so have to overall say no.
- Only short term, and to help people of the poverty line, but not for the long term, and the bloody bone idol!
- Having applied over a month ago now, and having made several phone calls, and sent several 'contact us' forms.... I'm STILL waiting for ANYONE to get back to be about Council Tax and Housing Benefits. If I'm not helped soon, I will have no choice but to default on my rent, and council tax!
- if you do not it will cause a lot of people a lot of upset and will cause you a lot of tax arrears because people will have difficulty paying it
- Most people on low income don't want change as they have discount and reduction over all service
- In the current climate this is a horrendous thing to even ask
- they can't afford to pay it they are on a MUCH lower income. Council tax is WAY too high anyway and you'd be taking a HUGE chunk of their benefits.
- If the benefit system is not supplementing lower earners. However maybe we need to look at a sliding scale.. a single occupant may earn a lot of money more than a couple with small children both on low incomes and paying after school and holiday clubs.
- Low income families will NOT be able to afford any additional payments. This will affect the poorest hardest.
- But outgoings should be considered as well
- More publicity to low income families should happen! QUICKLY and no decision should be made UNTIL ALL LOW INCOME FAMILIES HAVE BEEN CONSULTED OR IT IS NOT CONSTITUTIONAL !!!!
- Families and disabled people with lower incomes will be critically affected by any proposals to increase / introduce further reductions in their already smaller income.
- A yes or no is too simple. However, I do think that all households should pay something towards receiving the service. There should be no discrimination in help based on age or gender.

2. Do you think that the fairest way to achieve the savings required is an across the board 35% reduction in the new council tax support scheme?

- Hitting lower income families the hardest
- Protect vulnerable people with disability or live alone
- The Conservatives think the unemployed can afford telephone + broadband etc to apply for jobs. Which planet do they live on! Can they survive on benefits? The poor can't afford to pay it!! You live on the pittance that benefit pays out + see if you can make ends meet! Prices continue to rise, benefits don't, + nor have they ever done

so, not even in line with inflation! We can't afford the heating, electricity, water + food prices, let alone the fact that we're expected to apply for jobs out of the pittance we get! That includes travel to + from interviews, etc!

- Disincentive to find low-income work
- Those who are better off should have more of a reduction, while those who have less should have a smaller reduction, instead of the same for everyone
- People in expensive houses should not get a rebate
- 35% will not be enough for those on low income
- People on low income unable to pay would only result in county court judgement and still no payment
- don't know how it works now so unsure
- This is entirely dependent on how the money is going to be made up elsewhere. Presumably something else will go up in cost?
- Make the rich pay more
- Not knowing the details it's hard to comment. But a reduction of over a 3rd would not help anyone on a low income, or that has suddenly lost their job.
- Some households only have 1 part-time income and is too low for even a council tax liability of the remaining 65%
- Cutting across the board is arbitrary and does not take into account individuals needs.
- the above
- Not enough information
- Because 35% to someone on the lowest income is a lot bigger slice than to someone on more money. Simple I know but so is the question
- YES only if those on benefits still do not have to pay for council tax.
- you will take a money from low income people but not from reach
- 1. I don't understand what a "reduction in the new council tax support scheme" means because you haven't explained it and 2. I suspect you waste a lot of money and that buying in services has been proved a lot cheaper in other councils. Look at Bolton Metropolitan Council.
- No I think it does need to look at combined incomes and benefit top ups etc and work out how much in brackets that people can afford to pay this will enable people to aspire to better but won't penalise them for working we need to get people off benefits long term but help them while they are developing skills and earning potential.
- this should be thought thru in a more specific manner - applying 35% across the board assumes all are in the same position
- As above - It is grossly unfair to affect the poorest in society by increasing ANY payments
- This would disproportionately hit those on the lowest incomes and leave small amounts to be collected from those least able to pay. This recovery process would be expensive and time consuming compared to the amount of money likely to be successfully recovered. The extra cost of doing this would be better spent on providing services that people need. Having a paper debt of £x doesn't equate to money that can be spent.
- Paying 35% of council tax would prove prohibitively expensive for many and increase poverty in our city.
- I think it should be a 50% reduction
- I am already penalised for being under 35 by only being given a fraction of the Local Housing Allowance rate. After paying my rent I had £40 to live on each week. This put me in debt and the only reason I'm not on the street is because I was only unemployed for a few months and I'm back at work now. If Council Tax benefit had been 35% lower as well, I would have ended up homeless and the council would have to pay out even more to house me.

- Arbitrarily deciding people can pay more will not make them able to do so.
- Some people should lose 100%
- Whilst no cut is preferable it is impractical - a across the board reduction is most equitable, fair and incorporates the government requirement that all people bear this change.
- It will affect those on low incomes dreadfully. There are enough changes going on to confuse people. If those on benefits have to contribute how will this help reduce the debit the country is in? The Government says people have so much to live on.... if a contribution to council tax is made this will place people BELOW what the LAW says they have to live on so will those affected get more benefit OR be expected to live below what the law says is enough to live on?
- I don't believe this would be cost effective as lower income Vs specific disability income may widely differ. All true low income or severely disabled income families would not oppose a 'means test' approval.
- Instead of lowering the amount increase the amount for big houses 6+ beds
- we cant afford to pay a 35% increase from Nil at the moment.

3. Do you think that certain classes of persons should be protected from the reduction outlined and should include claimants where: (please select all that apply)

- Re: "some people receive more than one disability premium" (limit this to one benefit, whichever is highest!). It's also time to stop giving it to those who come into the country scrounging!! No citizen, no entitlement to benefits!! Make them pay taxes, etc, for 50 years, then they're entitled to benefits + pensions! No pay(e), no claim(e)! The system can't afford to keep none British citizens any more! Neither can the world! Stop giving them our money!
- Anyone on the minimum income should get council tax benefit. A large number on these above are getting far more than the minimum, many getting as much as 20 to £30,000 per year! Make it fair! Make them pay!
- Too many people get benefits
- The cost should be met by the Council by reducing waste (eg Orton Academy School pulled down)
- Anyone who can't work due to a disability needs to be protected as do those where the Council Tax is a large % of their outgoings
- or we cut the cost and reduce all , or there will be place for deception
- Even though I'm disabled I've never heard of any of these schemes! Even so being on disability means you now seem to be treated like a scrounger
- Most people's objections are to healthy, workshy people claiming benefit - the above claimants are necessarily genuine and should be fully supported.
- Again I think we need to look at households income that may include the benefits awarded for people within the household who have a disability. When combined with other benefits and premiums they may well have less outgoings than lower earning couples with small children. I think we need to look at the whole household rather than excluding or reducing a households bill because of one of the family members.
- Perhaps the better of such as our wonderful council leader could pay more instead. Or even take less from the city in 'Allowances' to contribute.
- Although disabled peopel appear to have a higher income than someone who is unemployed, these amounts are intended to help with the additional expenses involved in their day to day living, and cannot be seen as higher disposable income.
- Equality must be equal - the cost should be usage based.
- the very fact that these payments are made compensates already and supports the ability to make the payments - so i can see no need for a further reduction.
- All on benefits should be excluded and the more wealthy should pay more

- single parents should be helped or excluded

4. Do you think that the maximum amount of Council Tax Support should be limited to £23.15 per week?

- The unemployed should get the full amount they're entitled to!!
- I don't think this would make a vast difference
- A negligible saving
- as is needed Nov 5
- More than £100 a month is excessive support for council tax considering it's not costing much more than that anyway.
- Help with it all!
- Should be lower or reduced to zero
- There should be no support
- no, i think thats far too high
- can be more
- It should continue to be means tested and applied fairly. Your procedures are quite rigorous and fair as they stand.
- Again it would depend on circumstance, people living in social housing or a small property (where you would expect to find the most need and potential for poverty) this may be enough. Though again this may impact on the younger people who are just starting trying out independence and have scraped together a deposit and mortgage but may be in a higher banding. I think we need to find a way that looks at need vs income and outgoings.
- No, No, No!
- There needs to be a consideration of those who are asset rich but cash poor; at first it may seem that someone in a higher banded property could move but this may not be possible for several reasons. The current scheme already includes a restriction at band E which would be preferable.
- I think it should be lower
- See above
- It should be partially based on household income and disposable income. A family who has all their rent paid and lives on benefits can actually be better off than a low income working family who has to keep up mortgage or rent payments and get no support.
- Everyone should pay these services for all and so should be paid by all
- Anyone on benefits should have the help they need
- Ridiculous proposal - each support level should depend on the level of household income
- There needs to be a graded implementation for those hardest hit and there may be cases for short term (e.g. up to 3 months) greater help,
- You make the bands you can alter them to suit
- Disabled ppl have to live in bigger houses because of mobility needs, would be discriminatory.

5. Do you think that the minimum amount of Council Tax Support should be limited to £2.00 per week

- It's hardly worth collecting this amount (ref016)
- Entitlement is often a key in the door to other benefits (ref026)
- £10k a drop in the ocean overall (ref028)

- no because council tax benefit is used as a criteria for other support
- I don't see how getting less than £8 a month support would make a difference.
- no there should be constant value of support no min/max
- cost of arrange will be more than 2 pounds
- Actually £2 a week is neither here nor there to most families. However, I would imagine that £10K is neither here nor there to a unitary council.
- This equates to less than 30p a day
- too broad brush in its approach
- Do not understand this question fully, but it is grossly unfair to take money away from those who can least afford it.
- Again this would leave small sums (£104 per year) to be collected from those least able to pay. Again disproportionately expensive and time consuming to collect and altogether impractical. The saving would be wiped out by the extra recovery staff needed to chase the debt.
- Providing people really need the support then they should get it. However is this £10,000 saving made up of the £2 per week or does it include admin time of staff and paperwork?
- What is the additional cost to impose this limit?
- Don't understand this proposal
- The costs versus benefit of awarding this speak for itself and can not be justified.
- saving not worth the extra clerical work involved.

6. Do you think that the capital limit (the amount of savings in the bank or building society) for claiming Council Tax Support should be reduced from £16,000 to £6,000?

- Over £16,000, yes!
- If resident pays rent their savings should be allowed at least one years rent
- Savers are penalised enough
- Sufficient to cover burial costs
- This will hit the poorest households for which £6,000 may be a life times savings
- apparent savings may be miscalculated as debts are not taken into account
- Absolutely if they have cash, then can afford bills. The whole point of support is that they cannot afford bills in the first place. I have no savings and struggle monthly but because I'm not unemployed, I get no support!!
- Other benefits have lowered the threshold of savings. Ordinary hardworking families can't necessarily afford to save. I agree with this one.
- While we don't want to discourage saving the most needy do live hand to mouth. If you have £16,000 in the bank maybe you can afford to pay £100 a month to stay living in your property.
- sorry but if you have savings you SHOULD be paying your way, lots of employed people on no benefits have less savings than this and have to cope
- This could be fair if it was £6,000 for EACH person. We do have to pay for funerals, they are not free and £6,000 for each would be fair
- amount of savings should be totally disregarded whether above or below £16K because tax has already been paid at source
- Yes, but this depends upon the nature of the savings, if they are not accessible, they should not be taken into account until they are.
- If you've got £6,000 in savings, you have money to support yourself. I used up all of my savings and reached my overdraft limit before I even applied for JSA & Housing Benefit.

- This amount already applies to numerous benefits
- Generally the people who own their own properties will have also managed to save a bit of money for emergencies. They should not be penalised for being prudent.
- The capital limit at 16000 is the consistent assessment level ie for social care as well
- most people who will not get any support will not have savings of anything like £6,000 in savings, especially working parents with families to support.
- Suggest £10,000
- I do think yes but appropriate systems need to be put in place to monitor whether households are swerving this change by money movement.
- discourages people from saving.

7. Do you think that Alternative Maximum Council Tax Benefit (Second Adult Rebate) should still be part of Council Tax Support?

- No preference
- Not really important
- don't understand this question
- If we want people working then we need to support those who cannot perhaps work full time or get better paid posts. I think this is a fair benefit.
- It is a small saving but both parties would be paying full or 75% of their council tax so they would save overall. These are difficult times.
- See above
- There are two adults in my house as a married couple and we have to pay the full rate even when I was staying at home to raise a family with no second income. Why should someone who decides to co-habit with someone who perhaps has a good income get better treatment. I also wonder how many people currently didn't know of this option but now could try to claim it when hearing about this review!!
- If a partner is working and not eligible for other council tax support - then as they use 2 people's services this should be paid.
- 2 people use the services of 2 people with resulting income
- Not if on benefits
- Council tax should be based on total household income not value of house

8. Do you have any other comments about the new Council Tax Support scheme?

- What you give in benefits with one hand you take back with the other! Any monies you take for extra council tax is taken from that the unemployed need to apply for vacancies, food, heating, etc! You're robbing the poor of essentials needed for winter! I hope somebody does the same to you when you're vulnerable thought that'll be too late for the poor buggers you're robbing now! I've noticed over the years that there's always a deficit that gets squandered like the supposed £6m that was supposed to be spent on the Cathedral Square, that turned into £20m! You're heartless wasters! Robbing the poor to pay to pay (for) the rich! I hope your consciences trouble you to the end of your days!!
- Letter received requesting that we protect those with the carers premium
- 35% seems rather high
- More support/transition for those going into work
- Keep it simple to understand
- Council should fund by reducing wastage & challenge the Government to increase funding
- Reduce overheads of Council eg Mayor, mileage rates, expenses etc

- as the current scheme is so complicated that most people in the office do not understand how it works will the new scheme be simplified so that it can be administered properly
- Reduce the amount of useless managers and directors! Ad bingo there's your saving!
- New or old, it is difficult to see how anyone has managed to get it at all! (Over a month, and I'm still waiting for a reply!)
- It is unfair and outdated. We have a child that has grown up and is now 20. But this person is not working, due to learning difficulties as a child. This reduced our income, thus reduced the permissible income allowed for the CTS calculation, which made us liable for the council tax at full rate. Even though this person is chronologically an adult, we should still have had their dependancy allowed in our CTS calculation - thus awarding CTS for us as a family.
- We should focus on reduce the overall prices for all
- Scrap support I subsidise enough already
- All I can say is this attacks one section of society how is this were all in it together?
- Penny pinching again from those who can least afford it
- Perhaps those with larger incomes could pay more to subsidize those who are poorest
- Definition of 'vulnerable' etc need to be bullet proof as they are an obvious area for legal challenges of the scheme. This is an opportunity to correct DWP's woefully lax draughting of the old CTB scheme and avoid people having to go through appeals unnecessarily.
- The pain should be shared by all except the OAPs as we are all in this together.
- Any alteration offering a reduction of the current benefit will be extremely unfair to those with limited income.
- While I feel reform is necessary, it should be held as a fundamental that this scheme should be for the benefit of those who require it, not those who believe they deserve it.
- I think there should be a 50% reduction. People should pay for the services provided by the Council regardless of income.
- You could also save some money by reducing the salaries of the council's executives. What's a small reduction to them is a huge amount of money to the average working Council Tax payer like myself.
- Same as most things from the ConDem Alliance, it stinks!
- Many people living on benefits can end up with more disposable income than a working person. Peoples outgoings should be looked at when making decisions, A household that has to pay a mortgage gets no help with these payments even if on a low income yet a person renting can get their rent paid. Disposable income after valid household expenses , including transport arrangements for people in rural communities with poor public transport, should be looked into.
- Working people paying full council tax mustn't be asked to pay more in the long run because the council is scared of pad PR.
- Equality is paramount!
- Any scheme has to be affordable by all Peterborough residents and as such their wider picture needs to be taken into account when deciding on supporting people on low incomes/benefits. In addition, i feel like others we all should have to make some contribution rather than the current scheme that automaticaly exempts people from any payment.
- Another complicated taxation on the poor. Try taxing the wealthy - but that will not happen as we have to put up with a Conservative controlled council. Should you wish to be re-elected I suggest a bigger re-think.
- The way this is presented and explained is confusing, particularly to the elderly and those that may be most affected. A postage paid leaflet asking simpler questions

should be sent to EVERY household in Peterborough as many low income and disabled families will be less likely to respond to this survey.

- The principle of fairness should mean that everybody pays something towards council services and people are informed appropriately of what the money is used for and how much things cost.. However, this change is likely to lead to lots of non payments and some of the cost savings should be earmarked for gaining payment but also making it as easy as possible for people to pay and be advised sufficiently. Graded changes are likely to allow people to adapt to the changes more effectively.
- What would happen to people on benefits or that are unable to pay or increase the amount they pay already?
- please don't target the poorest & vulnerable in society.

9. Are you or any partner a pensioner?

Pay tax on pension anyway

APPENDIX 3 – SUMMARY OF COUNCIL TAX SUPPORT SCHEME

This appendix summarises the changes to the default regulations that the Council will make for its local scheme. The full regulations, including the updates, is included in Appendix 3. It is expected that the following changes are those needed for the local scheme.

Peterborough City Council's Council Tax Support Scheme will be based on the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012. The Secretary of State makes these Regulations in exercise of the powers conferred by section 113(2) of, and paragraph 4 of Schedule 1A to, the Local Government Finance Act 1992(1).

Peterborough City Council's Council Tax Support Scheme will contain the following two local components:

1. An overall reduction of 30% from all working age claimants

Peterborough City Council's Local Council Tax Support Scheme will show a 30% reduction in support for all working age claimants under:

PART 7

Maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

28. Maximum council tax reduction under this scheme: persons who are not pensioners

2. Treatment of Income from War Pensions/Armed Forces Compensation Scheme

The existing council tax benefit regulations instruct Local Authorities to disregard the first £10.00 and permits them the discretion to disregard up to 100% of any income received from the following:

- Armed Forces Compensation Scheme
- War Disablement Pension
- War Widows Disablement Pension
- War Widows Pension

Peterborough City Council's Local Council Tax Support Scheme will also update the following Schedules to reflect that the existing local policy of disregarding 100% of this income from the benefit calculation continues:

Schedule 7 – Sums disregarded in the calculation of earnings: persons who are not pensioners

Schedule 8 – Sums disregarded in the calculation of income other than earnings: persons who are not pensioners

NB: These changes only affect working age claimants, not Pensioners.

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APPENDIX 4 – DETAILED COUNCIL TAX SUPPORT SCHEME

Draft Council Tax Reduction Schemes (Default Scheme) Regulations 7 September 2012

STATUTORY INSTRUMENTS

2012 No.

COUNCIL TAX, ENGLAND

Council Tax Reduction Schemes (Default Scheme) (England)

Regulations 2012

*Made - - - - ****

*Laid before Parliament ****

*Coming into force - - ****

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 113(2) of, and paragraph 4 of Schedule 1A to, the Local Government Finance Act 1992(1):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 and come into force on [].

(2) These Regulations apply in relation to billing authorities in England.

Default scheme

2. The scheme set out in the Schedule to these Regulations is the scheme prescribed for the purposes of paragraph 4 of Schedule 1A to the Local Government Finance Act 1992.

Signed by authority of the Secretary of State for Communities and Local Government

Name

Parliamentary Under Secretary of State

Date

Department for Communities and Local Government

(1) 1992 c.14.

SCHEDULE Regulation 2

Council Tax Reduction Scheme (Default Scheme) 2013

PART 1
Introduction
Citation

1. This scheme may be cited as the Council Tax Reduction Scheme (Default Scheme) 2013.

PART 2
Interpretation
Interpretation

2.—(1) In this scheme—

“the 1992 Act” means the Local Government Finance Act 1992;

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society;

“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(2);

“alternative maximum council tax reduction” means the amount determined in accordance with paragraph 30 and Schedule 4;

“applicable amount” means—

(a) in relation to a pensioner, the amount calculated in accordance with paragraph 24 and Schedule 2, and

(b) in relation to a person who is not a pensioner, the amount calculated in accordance with—

(2) 1996 c.18. Sections 75A and 75B were inserted by the Employment Act 2002 (c.22) and amended by the Work and

Families Act 2006 (c.18), Schedule 1, paragraphs 33 and 34.

(i) paragraph 25 and Schedule 3; or

(ii) paragraph 27,

as the case may be;

“applicant” means a person applying for a reduction under this scheme;

“application” means an application for a reduction under this scheme;

“appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims for income support, a jobseeker’s allowance or an employment and support allowance;

“assessment period” means the period determined—

(a) in relation to pensioners—

(i) in relation to the earnings of a self-employed earner, in accordance with paragraph 42 of this scheme for the purpose of calculating the weekly earnings of the applicant;

or

(ii) in relation to any other income, in accordance with paragraph 39 of this scheme for the purpose of calculating the weekly income of the applicant;

(b) in relation to persons who are not pensioners, such period as is set out in paragraphs 46 to 48 of this scheme over which income falls to be calculated;

“attendance allowance” means—

(a) an attendance allowance under Part 3 of the SSCBA(3);

(b) an increase of disablement pension under section 104 or 105 of that Act;

(c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part 2 of Schedule 8 to that Act;

(d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to that Act;

(e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(4) or any analogous payment; or (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“the authority” means a billing authority in relation to 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(5);

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995(6), the State Pension Credit Act 2002(7) and the Welfare Reform Act 2007(8);

“board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises;

“care home” has the meaning given by section 3 of the Care Standards Act 2000(9) and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001(10);

(3) 1992 c.4. See sections 64 to 67 of that Act in relation to attendance allowance.

(4) S.I. 1983/686; relevant amending instruments are S.I. 1984/1675, 2001/420.

(5) 2007 c.3. See the definition of “basic rate” in section 989 of that Act.

(6) 1995 c.18.

(7) 2002 c.16.

(8) 2007 c.5.

“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;

“child care costs element” has the meaning given by regulation 27 of the Universal Credit Regulations 2012(11);

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002(12);

“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 are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007(13);

“council tax benefit” means council tax benefit under Part 7 of the SSCBA;

“couple” has the meaning given by paragraph 4 of this scheme;

“disability living allowance” means a disability living allowance under section 71 of the SSCBA(14);

“dwelling” has the meaning given by section 3 of the 1992 Act;

“earnings” has the meaning given by paragraph 40, 42, 43 or 50 of this scheme 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(15);

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA(16) 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;

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(17) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

(9) 2000 c.14. Section 3 was amended by the Health and Social Care Act 2008, Schedule 5, paragraphs 1 and 4 (c.14).

(10) 2001 asp 8.

(11) These Regulations are in draft – see the DWP website at <http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-keydocuments/welfare-reform-act-2012/welfare-reform-draft-regulations/> .

(12) 2002 c.21.

(13) 2007 c.5.

(14) 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 (c.5) (not yet in force).

(15) 2002 c.7.

(16) Section 2(1)(a) was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraphs 169 and 171

(c.1).

(17) 1999 c.30.

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

“extended reduction” means a reduction under this scheme for which a person is eligible under Part 12 (extended reductions);

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 87, 94 or 99;

“extended reduction (qualifying contributory benefits)” means a reduction under this scheme for which a person is eligible in accordance with paragraph 87 or 98;

“family” has the meaning given by paragraph 6 of this scheme;

“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 or, in Scotland, on 10th April 1992;

“guarantee credit” is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(18);

“a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(19);

“housing benefit” means housing benefit under Part 7 of the SSCBA;

“housing costs element” has the meaning given by regulation 21 of the Universal Credit Regulations 2012(20);

“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(21);

“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(22) 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(23); and (c) in Scotland means an independent healthcare service as defined by section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;

“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;

“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 dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

(18) 2002 c.16.

(19) S.I. 2005/439.

(20) These Regulations are in draft – see the DWP website at <http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-keydocuments/>

[welfare-reform-act-2012/welfare-reform-draft-regulations/](#) .

(21) 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) and is repealed by the Welfare Reform Act 2012, Schedule 14, Part 1 (not yet in force).

(22) 2006 c.41.

(23) 2000 c.14.

“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;

“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 haemophilia;

“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 haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“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(24) except in Part 1 of Schedule 3;

“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(25);

“member of a couple” means a member of a married or unmarried couple;

“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;

“mobility supplement” means—

(a) in relation to pensioners, a supplement to which paragraph 5(1)(a)(vi) of Schedule 5 to this scheme refers;

(b) in relation to persons who are not pensioners, a supplement to which paragraph 13 of Schedule 8 refers;

“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;

“net earnings” means such earnings as are calculated in accordance with paragraph 41 or 51 of this scheme, as the case may be;

“net profit” means such profit as is calculated in accordance with paragraph 60 of this scheme;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraphs 89, 96 and 101, the dwelling to which an applicant has moved, or is about to move, in which the applicant will be resident;

“non-dependant” has the meaning given by paragraph 9 of this scheme;

“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(26);

(24) 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).

(25) 1996 c.18.

(26) 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.

“partner”, in relation to a person, means—

(a) where that person is a member of a couple, the other member of that couple; or
 (b) where that person is polygamously married to two or more members of his household, any such member to whom he is married;

“paternity leave” means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996**(27)**;

“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**(28)**;

“pensioner” has the meaning given by paragraph 3(2)(a) of this scheme;

“person on income support” means a person in receipt of income support;

“person who is not a pensioner” has the meaning given by paragraph 3(2)(b) of this scheme;

“persons treated as not being in Great Britain” has the meaning given by paragraph 21 of this scheme;

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012**(29)**;

“personal pension scheme” means—

(a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993**(30)**;

(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988**(31)** 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**(32)**;

(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 paragraph 5 of this scheme applies;

“public authority” includes any person certain of whose functions are functions of a public nature;

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002**(33)**)—

(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—

(27) 1996 c.18. Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c.22) and amended by the Work and Families Act 2006 (c.18), Schedule 1, paragraphs 35 and 36.

(28) 1995 c.26.

(29) 2012 c.5.

(30) 1993 c.48.

(31) 1988 c.1.

(32) 2004 c.12.

(33) 2002 c.16.

(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 person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation 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 paragraph 10 of this scheme;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have acquired the qualifying age for state pension credit) Regulations 2006(34) refer, less any deductions in respect of non-dependants which fall to be made under paragraph 29 (nondependent deductions) of this scheme;

“resident” has the meaning given by Part 1 of the 1992 Act;

“savings credit” is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002(35);

“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(36) (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(37) (functions in relation to training for employment, etc.); or

(c) the Employment, Skills and Enterprise Scheme(38);

“service user group” means a group of individuals that is consulted by or on behalf of—

(a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978(39),

(b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985(40),

(34) S.I. 2006/214.

(35) 2002 c.16. Section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24, paragraph 140 and S.I. 2002/1792.

(36) 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.

(37) 1990 c.35.

(38)

(39) 1978 c.29.

(40) 1985 c.68.

(c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995(41),

(d) a public authority in consequence of a function under section 49 of the Equality Act 2010;

(e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999(42),

(f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001(43),

(g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006(44),

(h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006(45),

(i) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008(46),

(j) the regulator or a private registered provider of social housing in consequence of a

function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008**(47)**, or
(k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

“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;

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993**(48)** out of sums allocated to it for distribution under that section;

“the SSCBA” means the Social Security Contributions and Benefits Act 1992**(49)**;

“state pension credit” means state pension credit under the State Pension Credit Act 2002**(50)**;

“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

(41) 1995 c.50

(42) 1999 c.27.

(43) 2001 asp 10.

(44) 2006 c.41.

(45) 2006 c.42.

(46) 2008 c.14.

(47) 2008 c.17.

(48) 1993 c.39.

(49) 1992 c.4.

(50) 2002 c.16.

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**(51)**, or is training as a teacher;

“the Trusts” means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012**(52)**;

“voluntary organisation” means a body, other than a public or local 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**(53)**;

“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(54),

(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(55), in so far as such charges are in respect of the dwelling which a person occupies as his home;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002(56);

“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA.

(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 in accordance with regulation 27A of the Jobseeker’s Allowance Regulations 1996(57) or section 19 or 20A or

(51) 1973 c.50.

(52) 2012 c.5.

(53) 2003 c.1.

(54) 1991 c.56.

(55) 2002 asp 3.

(56) 2002 c.21.

(57) S.I. 1996/207.

regulations made under section 17A of the Jobseekers Act 1995(58) (circumstances in which a jobseeker’s allowance is not payable); or (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 regulation 27A of the Jobseeker’s Allowance Regulations 1996 or section 19 or 20A or regulations made under section 17A of that Act;

(c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and no joint-claim jobseeker’s allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;

(d) in respect of which an income-based jobseeker’s allowance or a joint-claim 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(59) (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(60) (disqualification); or

(b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in 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(61) (small amounts of state pension credit).

Application of scheme: pensioners and persons who are not pensioners

3.—(1) This scheme applies to—

- (a) pensioners who fall within any of classes A to C(**62**); and
- (b) persons who are not pensioners who fall within any of classes D to F(**63**).

(2) In this scheme—

(a) a person is a “pensioner” if—

(i) he has attained the qualifying age for state pension credit; and

(ii) he is not, or, if he has a partner, his partner is not—

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

(bb) a person with an award of universal credit; and

(b) a person is a “person who is not a pensioner” if—

(**58**) 1995 c.18.

(**59**) 2001 c.11.

(**60**) 2007 c.5.

(**61**) S.I. 2002/1792.

(**62**) See paragraphs 13 to 15 of this scheme.

(**63**) See paragraphs 16 to 18 of this scheme.

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

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

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

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

Meaning of “couple”

4.—(1) In this scheme “couple” means—

(a) a man and woman who are married to each other and are members of the same household;

(b) a man and woman who are not married to each other but are living together as husband and wife;

(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 who are not civil partners of each other are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.

Polygamous marriages

5.—(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 4 neither party to the marriage is to be taken to be a member of a couple.

Meaning of “family”

6.—(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(**64**) 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; or
(64) Section 145A inserted by the Tax Credits Act 2002 (c.21), section 55(1).
(b) a person to whom section 6 of the Children (Leaving Care) Act 2000(65) (exclusion from benefits) applies.

Circumstances in which a person is to be treated as responsible or not responsible for another

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

Households

- 8.—(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 23(2)(a) of the Children Act 1989(66) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
(b) placed, or in Scotland boarded out, 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(67) or the Adoption Agencies (Scotland) Regulations 2009(68).
(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, or in Scotland is in the care of, a local authority under a relevant enactment; or
(b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to 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—
(65) 2000 c.35.
(66) 1989 c.41.
(67) 2002 c.38.
(68) S.I. 2009/154.
(a) that child or young person lives with the applicant for part or all of that reduction week; and
(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(69);
(b) the Air Force Act 1955(70);
(c) the Naval Discipline Act 1957(71);

- (d) the Matrimonial Proceedings (Children) Act 1958(72);
- (e) the Social Work (Scotland) Act 1968(73);
- (f) the Family Law Reform Act 1969(74);
- (g) the Children and Young Persons Act 1969(75);
- (h) the Matrimonial Causes Act 1973(76);
- (i) the Children Act 1975(77);
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978(78);
- (k) the Adoption and Children (Scotland) Act 2007(79);
- (l) the Family Law Act 1986(80);
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995(81); and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012(82).

Non-dependants

9.—(1) In this scheme, “non-dependant” means any person, except someone to whom subparagraph

(2) applies, who normally resides with an applicant or with whom an applicant normally resides.

(2) This paragraph applies to—

- (a) any member of the applicant's family;
- (b) if the applicant is polygamously married, 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 paragraph 8 (households);
- (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);
- (69) 1955 c.18.
- (70) 1955 c.19.
- (71) 1957 c.53.
- (72) 1958 c.40.
- (73) 1968 c.49.
- (74) 1969 c.46.
- (75) 1969 c.54.
- (76) 1973 c.18.
- (77) 1975 c.72.
- (78) 1978 c.22.
- (79) 2007 asp 4.
- (80) 1986 c.55.
- (81) 1995 c.36.
- (82) 2012 c.10.
- (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-dependant—

- (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-dependant 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.

Remunerative work

10.—(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 claim, 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 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.

PART 3

Procedural matters

Procedure for reduction applications and appeals against reduction decisions

11. Schedule 1 contains provisions about the procedure—

(a) by which a person may apply for a reduction under this scheme;

(b) by which a person may make an appeal against certain decisions of the authority;

(c) by which a person can apply to the authority for a reduction under section 3A(1)(c) of the 1992 Act.

PART 4

Classes of person entitled to a reduction under this scheme

Classes of person entitled to a reduction under this scheme

12.—(1) The classes of person described in paragraphs 13 to 18 are entitled to a reduction under this scheme.

(2) In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

Class A: pensioners whose income is less than the applicable amount

13. On any day class A consists of any person who is a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount calculated in accordance with paragraph 24 and Schedule 2, and
- (f) who has made an application for a reduction under this scheme.

Class B: pensioners whose income is greater than the applicable amount

14. On any day class B consists of any person who is a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with paragraph 24 and Schedule 2;
- (f) in respect of whom amount A exceeds amount B where—
 - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and
 - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application for a reduction under this scheme.

Class C: alternative maximum council tax reduction – pensioners

15.—(1) On any day class C consists of any person who is a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) who has made an application for a reduction under this scheme; and
- (f) in relation to whom the condition in sub-paragraph (2) is met.

(2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate income, of one or more residents to whom this sub-paragraph applies.

(3) Sub-paragraph (1) applies to any other resident of the dwelling who—

- (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
- (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
- (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—
 - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount; or
 - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or

(e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

Class D: persons who are not pensioners whose income is less than the applicable amount

16. On any day class D consists of any person who is not a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income (if any) for the relevant week is less than his applicable amount calculated in accordance with paragraph 25 and Schedule 3, and
- (f) who has made an application for a reduction under this scheme.

Class E: persons who are not pensioners whose income is greater than the applicable amount

17. On any day class E consists of any person who is not a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with paragraph 25 and Schedule 3;
- (f) in respect of whom amount A exceeds amount B where—
 - (i) amount A is the maximum council tax reduction in his case; and
 - (ii) amount B is $2\frac{6}{7}$ per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application for a reduction under this scheme.

Class F: alternative maximum council tax reduction – persons who are not pensioners

18.—(1) On any day class F consists of any person who is not a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme;
- (e) who has made an application for a reduction under this scheme; and
- (f) in relation to whom the condition in sub-paragraph (2) is met.

(2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the person in question in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate income, of one or more residents to whom this sub-paragraph applies.

(3) Sub-paragraph (1) applies to any other resident of the dwelling who—

- (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount; and
- (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
- (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant for the reduction is a member of that couple or of that marriage and—
 - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount; or
 - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (d) is not a person who jointly with the applicant for reduction falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or

(e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

Periods of absence from a dwelling

19.—(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 13 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 13 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 13 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,

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 the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;

(d) is following, in the United Kingdom or elsewhere, a training course;

(e) is undertaking medically approved care of a person residing in the United Kingdom 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 the United Kingdom 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 subparagraph (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(83), or, in Scotland, under the provisions of the Mental Health (Care and Treatment)

(Scotland) Act 2003(84) or the Criminal Procedure (Scotland) Act 1995(85)); and

(b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952(**86**) or the Prisons (Scotland) Act 1989(**87**).

(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 which he is a resident.

(**83**) 1983 c.20.

(**84**) 2003 asp 13.

(**85**) 1995 c.46.

(**86**) 1952 c.52.

(**87**) 1989 c.45.

(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 Abbeyfield Home; 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.

PART 5

Classes of person excluded from this scheme

Classes of person excluded from this scheme

20. The classes of person described in paragraphs 21 to 23 are not entitled to a reduction under this scheme.

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

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

(2) For the purposes of determining whether a person meets the basic condition to be in Great Britain, except where a person falls within sub-paragraph (5), 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 Immigration (European Economic Area) Regulations 2006; or

(b) Article 6 of Council Directive No.2004/38/EC.

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

(a) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006(**88**) as a worker or a self-employed person;

(b) a family member of a person referred to in paragraph (a) within the meaning of regulation 7 of the Immigration (European Economic Area) Regulations 2006;

(**88**) S.I. 2006/1003.

- (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 Immigration (European Economic Area) Regulations 2006;
- (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 granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971(89) on the rejection of their claim for asylum;
- (f) a person who has humanitarian protection granted under those rules; or
- (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(90) 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.

Persons treated as being in Great Britain

21A.—(1) A person who falls within sub-paragraph (2) or (3) is to be treated as being in Great Britain, unless the person is to be treated as not in Great Britain under paragraph 21.

(2) A person falls within this sub-paragraph if the person is not in Great Britain in the capacity of being—

- (a) an aircraft worker;
- (b) a continental shelf worker who is in a designated area or a prescribed area;
- (c) a Crown servant;
- (d) a mariner; or
- (e) a member of Her Majesty's forces.

(3) A person falls within this sub-paragraph if—

- (a) the person is a member of a couple, and the other member falls within sub-paragraph (2); and
- (b) is not in Great Britain by reason only of the fact that the person is living with the other member of the couple.

(4) In this paragraph—

“aircraft worker” means a person who is employed under a contract of service either as a pilot, commander, navigator or other member of the crew of any aircraft, or in any other capacity on board any aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mail carried on that aircraft; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight;

“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of Petroleum Act 1998(91);

(89) 1971 c.77.

(90) 1999 c.33.

(91) 1998 c.17.

“Crown servant” means a person employed by or under the Crown in right of the United Kingdom;

“designated area” means any areas which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(92) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage;

“prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and

exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998.

Temporary absence from Great Britain

21B.—(1) For the purposes of determining whether a person meets the basic condition to be in Great Britain, a person's temporary absence from Great Britain is disregarded—

- (a) during the first month of the temporary absence if sub-paragraph (2) applies; or
- (b) during the first 6 months of the temporary absence if sub-paragraph (3) applies.

(2) This sub-paragraph applies where—

- (a) the person was entitled to universal credit immediately before the beginning of the period of temporary absence; and
- (b) the person has not been absent for more than 2 occasions in the previous 52 weeks, starting from the first day of the current temporary absence period.

(3) This sub-paragraph applies where—

- (a) the person was entitled to universal credit immediately before the beginning of the period of temporary absence; and

(b) the absence is solely in connection with—

- (i) the treatment of the person for an illness or physical or mental disability by, or under the supervision of, a person appropriately qualified to carry out that treatment;
- (ii) the person accompanying a person specified in sub-paragraph (5) for the treatment of that specified person for an illness or physical or mental disability by, or under the supervision of, a professional appropriately qualified to carry out that treatment;
- (iii) the person undergoing medically approved convalescence or care as a result of treatment for an illness or physical or mental disability, where the person had that illness or disability before leaving Great Britain.

(4) The period in sub-paragraph (1)(a) must be extended by up to a further one month if—

(a) the temporary absence is in connection with the death of—

- (i) a person specified in sub-paragraph (5);
- (ii) a close relative of the person, or a person specified in sub-paragraph (5); and

(92) 1964 c.29.

(b) the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within the first month.

(5) A person is specified in this sub-paragraph where the person is—

- (a) where the person is a member of a couple, the other member of that couple; or
- (b) a child or qualifying young person for whom the person, or where the person is a member of a couple, the other member, is responsible.

(6) In this paragraph—

“appropriately qualified” means qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment;

“medically approved” means certified by a medical practitioner.

Class of person excluded from this scheme: persons subject to immigration control

22.—(1) Persons subject to immigration control are not entitled to a reduction under this scheme(93).

(2) “Person subject to immigration control” has the meaning given in section 115(9) of the Immigration and Asylum Act 1999.

Class of person excluded from this scheme: capital limit

22A. The class of person described in this paragraph consists of any person whose capital exceeds £16,000(94).

Class of person excluded from this scheme: students

23.—(1) The class of person described in this paragraph consists of any student to whom paragraph 73(1) applies (except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of paragraph 18).

(2) In this paragraph “student” has the meaning given by paragraph 71(1) of this scheme.

PART 6

Applicable amounts for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

Applicable amounts: pensioners (including pensioners in polygamous marriages)

24.—(1) The applicable amount for a pensioner for a week is the aggregate of such of the following amounts as apply in his case—

(a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2;

(b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule;

(c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);

(93) There will be changes to the provision, regarding non-EEA nationals, to reflect finalised universal credit Regulations.

(94) See Part 10, Chapters 1 and 7, of this scheme in relation to the capital of an applicant and the calculation of tariff income from capital.

(d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).

(2) In Schedule 2—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“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(95).

Applicable amounts: persons who are not pensioners

25.—(1) Subject to paragraphs 26 and 27, the applicable amount for a week for a person who is not a pensioner 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 paragraph 1 of Schedule 3;

(b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule;

(c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of that Schedule (family premium);

(d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);

(e) the amount of either the—

(i) work-related activity component; or

(ii) support component,

which may be applicable to him in accordance with Part 5 of that Schedule (the components);

(f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

(2) In Schedule 3—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“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(96);

“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(97).

Polygamous marriages: persons who are not pensioners

26. Where an applicant who is not a pensioner is a member of a polygamous marriage, his applicable amount for a week is the aggregate of such of the following amounts as may apply in his case—

(95) S.I. 2005/3360.

(96)

(97)

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

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

(c) an amount determined in accordance with paragraph 2 of that Schedule (applicable amounts) 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;

(d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);

(e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);

(f) the amount of either the—

(i) work-related activity component; or

(ii) support component, which may be applicable to him in accordance with Part 5 of that Schedule (the components);

(g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

Applicable amount: persons who are not pensioners who have an award of universal credit

27.—(1) In determining the applicable amount for a week of an applicant—

(a) who has, or

(b) whose partner has, or

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

an award of universal credit, the authority will use the calculation or estimate of the maximum amount of the applicant, or the applicant's partner, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (2).

(2) The adjustment referred to in sub-paragraph (1) is where a housing costs element has been awarded to the applicant, his partner or the applicant and his partner jointly, the amount of that element is to be deducted from the applicable amount.

(3) 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(98).

PART 7

Maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

Maximum council tax reduction under this scheme: pensioners

28.— (1) Where a person falls within classes A-D, F or H, and subject to sub-paragraphs (2) to (4), the amount of a person's maximum council tax reduction in respect of a day is 100 per cent of the amount A/B where—

(a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 29 (non-dependant deductions: pensioners and persons who are not pensioners).

(2) In calculating a person's maximum council tax reduction under this scheme any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than a reduction under this scheme), is to be taken into account.

(3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.

(5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 73(2) applies.

(6) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

Maximum council tax reduction under this scheme: persons who are not pensioners

28A.—(1) Where a person falls within classes E or G, and subject to subparagraphs (2) to (4), the amount of a person's council tax reduction in respect of a day is **to be reduced by 30 per cent** of the amount A/B where—

(a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and

(b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 29 (non-dependant deductions: pensioners and persons who are not pensioners).

(2) In calculating a person's maximum council tax reduction under this scheme any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than a reduction under this scheme), is to be taken into account.

(3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.

(5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 73(2) applies.

(6) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

Non-dependant deductions: pensioners and persons who are not pensioners

29.—(1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 28 are—

(a) in respect of a non-dependant aged 18 or over in remunerative work, £8.60 x 1/7;

(b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £2.85 x 1/7.

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—

(a) less than £180.00, the deduction to be made under this paragraph is that specified in subparagraph (1)(b);

(b) not less than £180.00 but less than £310.00, the deduction to be made under this paragraph is £5.70;

(c) not less than £310.00 but less than £387.00, the deduction to be made under this paragraph is £7.20.

(3) 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 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.

(4) 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.

(5) 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-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.

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

(a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (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).

(7) No deduction is to be made in respect of a non-dependant 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 Part 11 (students); 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 paragraph 19(6) of this scheme, 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.

(8) No deduction is to be made in respect of a non-dependant—

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

(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-dependant who is a student to whom paragraph 4 of that Schedule refers.

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

- (a) any attendance allowance, disability living allowance or personal independence payment 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 or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 53 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 53, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

PART 8

Alternative maximum council tax reduction for the purposes of calculating eligibility
for a reduction under this scheme and amount of reduction

Alternative maximum council tax reduction under this scheme: pensioners and persons who are not pensioners

30.—(1) Subject to sub-paragraphs (2) and (3), the alternative maximum council tax reduction in respect of a day where the conditions set out in paragraph 15 or 18 are fulfilled, is the amount determined in accordance with Schedule 4.

(2) Subject to sub-paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax reduction in his case, the amount determined in accordance with Schedule 4 must be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 of the 1992 Act (liability of spouses and civil partners), sub-paragraph (2) does not apply in his case.

PART 9

Amount of reduction under this scheme

Amount of reduction under this scheme: Classes A to F

31.—(1) Where a person is entitled to a reduction under this scheme in respect of a day, the amount of the reduction to which he is entitled is as follows.

(2) Where the person is within class A or D, that amount is the amount which is the maximum council tax reduction in respect of the day in the applicant's case.

(3) Where the person is within class B or E, that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f) or 17(f), as the case may be.

(4) Where the person is within class C or F, that amount is the amount which is the alternative maximum council tax reduction in respect of the day in the applicant's case.

(5) Sub-paragraph (6) applies where both—

- (a) sub-paragraph (2) or sub-paragraph (3), and
- (b) sub-paragraph (4),

apply to a person.

(6) The amount of the reduction to which the person is entitled is whichever is the greater of—

- (a) the amount of the reduction given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and
- (b) the amount of the reduction given by sub-paragraph (4).

PART 10

Income and capital for the purposes of calculating eligibility for a reduction under
this scheme and amount of reduction

CHAPTER 1

Income and capital: general

Calculation of income and capital: applicant's family and polygamous marriages

32.—(1) The income and capital of—

(a) an applicant; and

(b) any partner of that applicant, is to be calculated in accordance with the provisions of this Part.

(2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.

(3) Where an applicant or the partner of an applicant is married polygamously to two or more members of his household—

(a) the applicant must be treated as possessing capital and income belonging to each such member; and

(b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

Circumstances in which income and capital of non-dependant is to be treated as applicant's

33.—(1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more income and capital than the applicant.

(2) Except where—

(a) the applicant is a pensioner and is on a guarantee credit, or

(b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,

the authority will treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess is to be disregarded.

(3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant will be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

CHAPTER 2

Income and capital: pensioners in receipt of guarantee credit or savings credit

Applicant in receipt of guarantee credit: pensioners

34. In the case of an applicant who is a pensioner and who is in receipt, or whose partner is in receipt, of a guarantee credit, the whole of his capital and income must be disregarded.

Calculation of applicant's income in savings credit only cases: pensioners

35.—(1) In determining the income and capital of an applicant who is a pensioner and who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, the authority will use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of state pension credit(99).

(2) The authority will adjust the amount of the net income provided to the authority by the Secretary of State only in so far as necessary to take into account—

(a) the amount of any savings credit payable;

(b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 56(1)(c);

(c) the higher amount disregarded under this scheme in respect of—

(i) lone parent's earnings; or

(ii) payments of maintenance, whether under a court order or not, which is made or due to be made by—

(aa) the applicant's former partner, or the applicant's partner's former partner; or

(bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;

- (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 5;
 - (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
 - (f) paragraph 33 (circumstances in which capital and income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
 - (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act(100);
 - (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5.
- (3) Paragraphs 38 to 43 and 56 to 60 do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).
- (4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 62, 64 to 68 of this scheme.
- (5) This sub-paragraph applies if—
- (99) See paragraph 22A for the capital limit for eligibility of £16,000.
- (100) Section 13A is substituted by [clause 9] of the Local Government Finance Act 2012 (c.[]).
- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less or the authority determines his capital as being £16,000 or less;
 - (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
 - (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

CHAPTER 3

Income and capital where there is an award of universal credit

Calculation of income and capital: persons who are not pensioners who have an award of universal credit

36.—(1) In determining the income of an applicant—

- (a) who has, or
 - (b) whose partner has, or
 - (c) who (jointly with his partner) has,
- an award of universal credit the authority will, subject to the following provisions of this paragraph, use the calculation or estimate of the income of the applicant, or the applicant's partner, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award.
- (2) The authority will modify the figure for income provided by the Secretary of State to take into account—
- (a) the amount of any universal credit payable net of the child care costs element and housing costs element;
 - (b) any sum to be disregarded under Schedule 7 of this scheme (sums to be disregarded in the calculation of earnings: persons who are not pensioners);
 - (c) any sum to be disregarded under Schedule 8 of this scheme (sums to be disregarded in the calculation of income other than earnings: persons who are not pensioners);
 - (d) the income and capital of any partner of the applicant who is a member of the applicant's household, to the extent that it is not taken into account in determining the net income of the person claiming universal credit;
 - (e) paragraph 33 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
 - (f) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act.
- (3) Paragraphs 32, 33, 46 to 56 and 58 to 61 (calculation of income) apply only for the purpose of determining any modifications which fall to be made to the figure for earned income under subparagraph

(2).

(4) In determining the capital of an applicant—

(a) who has, or

(b) whose partner has, or

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

an award of universal credit, the authority will use the calculation or estimate of the capital of the applicant, the applicant's partner or the applicant and his partner jointly (as the case may be) made by the Secretary of State for the purpose of determining that award(101).

CHAPTER 4

Income: other pensioners

Calculation of income and capital where state pension credit is not payable: pensioners

37. Where neither paragraph 34 nor 35 applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 38 to 43 and 56 to 60 and Chapter 7 of this Part.

Meaning of "income": pensioners

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

(a) earnings;

(b) working tax credit;

(c) retirement pension income within the meaning of the State Pension Credit Act 2002;

(d) income from annuity contracts (other than retirement pension income);

(e) a war disablement pension or war widow's or widower's pension;

(f) a foreign war disablement pension or war widow's or widower's pension;

(g) a guaranteed income payment;

(h) a payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(102), in any case where article 23(2)(c) applies;

(i) income from capital other than capital disregarded under Part 1 of Schedule 9;

(j) social security benefits, other than retirement pension income or any of the following benefits—

(i) disability living allowance;

(ii) personal independence payment;

(iii) attendance allowance payable under section 64 of the SSCBA;

(iv) an increase of disablement pension under section 104 or 105 of that Act;

(v) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part 2 of Schedule 8 to that Act;

(vi) an increase of an allowance payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to that Act;

(vii) child benefit;

(viii) any guardian's allowance payable under section 77 of the SSCBA;

(ix) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act;

(x) any social fund payment made under Part 8 of that Act;

(xi) Christmas bonus payable under Part 10 of that Act;

(xii) housing benefit;

(101) See paragraph 22A for the capital limit for eligibility of £16,000.

(102) S.I. 2005/439.

(xiii) council tax benefit;

(xiv) bereavement payment;

(xv) statutory sick pay;

(xvi) statutory maternity pay;

(xvii) statutory paternity pay payable under Part 12ZA of the SSCBA;

(xviii) statutory adoption pay payable under Part 12ZB of that Act;

(xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;

(k) all foreign social security benefits which are similar to the social security benefits

prescribed above;

(l) a payment made—

(i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(**103**), in any case where article 30(1)(b) applies; or

(ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;

(m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;

(n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979(**104**);

(o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—

(i) under a court order;

(ii) under an agreement for maintenance; or

(iii) voluntarily;

(p) payments due from any person in respect of board and lodging accommodation provided by the applicant;

(q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;

(r) any payment in respect of any—

(i) book registered under the Public Lending Right Scheme 1982; or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;

(s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;

(t) any sum payable by way of pension out of money provided under—

(i) the Civil List Act 1837(**105**),

(ii) the Civil List Act 1937(**106**),

(iii) the Civil List Act 1952(**107**),

(**103**) S.I. 2006/606.

(**104**) 1979 c.41.

(**105**) 1837 c.2.

(**106**) 1937 c.32.

(iv) the Civil List Act 1972(**108**), or

(v) the Civil List Act 1975(**109**);

(u) any income in lieu of that specified in paragraphs (a) to (r);

(v) any payment of rent made to an applicant who—

(i) owns the freehold or leasehold interest in any property or is a tenant of any property;

(ii) occupies part of the property; and

(iii) has an agreement with another person allowing that person to occupy that property on payment of rent;

(w) any payment made at regular intervals under an equity release scheme;

(x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.

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

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

(4) The adjustments specified in this sub-paragraph are those made in accordance with—

(a) the Social Security (Overlapping Benefits) Regulations 1979(**110**);

(b) the Social Security (Hospital In-Patients) Regulations 1975;

(c) section 30DD or section 30E of the SSCBA(111) (reductions in incapacity benefit in respect of pensions and councillor's allowances);

(d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it.

(5) In sub-paragraph (1)(w), "equity release scheme" means a loan—

(a) made between a person ("the lender") and the applicant;

(b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and

(c) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home.

Calculation of weekly income: pensioners

39.—(1) Except in a case within sub-paragraph (2) or (4), for the purposes of calculating the weekly income of an applicant who is a pensioner, where the period in respect of which a payment is made—

(a) does not exceed a week, the whole of that payment is to be included in the applicant's weekly income;

(b) exceeds a week, the amount to be included in the applicant's weekly income is to be determined—

(107) 1952 c.37.

(108) 1972 c.7.

(109) 1975 c.82.

(110) S.I. 1979/597.

(111)

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

(ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;

(iii) in a case where that period is a year, by dividing the amount of the payment by 52;

(iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.

(2) Sub-paragraph (3) applies where—

(a) the applicant's regular pattern of work is such that he does not work the same hours every week; or

(b) the amount of the applicant's income fluctuates and has changed more than once.

(3) The weekly amount of that applicant's income is to be determined—

(a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or

(b) in any other case, on the basis of—

(i) the last two payments if those payments are one month or more apart;

(ii) the last four payments if the last two payments are less than one month apart; or

(iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.

(4) For the purposes of sub-paragraph (3)(b) the last payments are the last payments before the date the application was made or treated as made.

(5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment is to be treated as if made in respect of a period of a year.

(6) This sub-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;

(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; and

(c) any payment which is made on an occasional basis.

(7) The period under 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.

(8) Where payments are made in a currency other than Sterling, the value of the payment is to be determined by taking the Sterling equivalent on the date the payment is made.

(9) The sums specified in Schedule 5 are to be disregarded in calculating—

(a) the applicant's earnings; and

(b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).

(10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in paragraph (6) is to be treated as though they were earnings.

(11) Income specified in Schedule 6 is to be disregarded in the calculation of the applicant's income.

(12) Schedule 9 has effect so that—

(a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and

(b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 69.

(13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

Earnings of employed earners: pensioners

40.—(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner who is a pensioner, 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;

(d) any holiday pay;

(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(112);

(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;

(k) any sums payable under a contract of service—

(i) for incapacity for work due to sickness or injury; or

(ii) by reason of pregnancy or confinement.

(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 lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme; (112) S.I. 2001/1004.

(e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996(113) in respect of unfair dismissal or unlawful discrimination;

(f) 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 subparagraph

(1)(g).

Calculation of net earnings of employed earners: pensioners

41.—(1) For the purposes of paragraph 56 (calculation of income on a weekly basis), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 39(4) and Schedule 5, be his net earnings.

(2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

(a) any amount deducted from those earnings by way of—

(i) income tax;

(ii) primary Class 1 contributions under the SSCBA;

(b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;

(c) one-half of the amount calculated in accordance with sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and

(d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.

(3) In this regulation "qualifying contribution" means any sum which is payable periodically as a contribution towards a personal pension scheme.

(4) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution 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 contribution is to be determined—

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

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

(5) Where the earnings of an applicant are determined under paragraph 39(2)(b) (calculation of weekly income: classes A to C) his net earnings is to be calculated by taking into account those earnings over the assessment period, 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 section 257(1) of the Income and Corporation Taxes Act 1988 (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 (113) 1996 c.17. 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 which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Calculation of earnings of self-employed earners: pensioners

42.—(1) Where the earnings of an applicant who is a pensioner consist of earnings from employment as a self-employed earner, the weekly amount of his earnings is to be determined by reference to his average weekly earnings from that employment—

(a) over a period of one year; or

(b) where the applicant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period (“computation period”) as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) For the purposes of determining the weekly amount of earnings of an applicant to whom sub-paragraph (1)(b) applies, his earnings over the computation period are to be divided by the number equal to the number of days in that period and the product multiplied by 7.

(3) The period over which the weekly amount of an applicant’s earnings is calculated in accordance with this paragraph is to be his assessment period.

Earnings of self-employed earners: pensioners

43.—(1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner who is a pensioner, means the gross income of the employment.

(2) “Earnings” in the case of employment as a self-employed earner does not include—

(a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;

(b) any payment made by a local authority to an applicant—

(i) with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after) or, as the case may be, section 26(1) of the Children (Scotland) Act 1995; or

(ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009 or who is a kinship carer under those Regulations;

(c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);

(d) 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—

(i) a health authority;

(ii) a local authority but excluding payments of housing benefit made in respect of the person concerned;

(iii) a voluntary organisation;

(iv) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(114);

(v) a primary care trust established under section 16A of the National Health Service Act 1977(115) or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or

(vi) a Local Health Board established under section 16B of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006(116);

(e) any sports award.

Notional income: pensioners

44.—(1) An applicant who is a pensioner is to be treated as possessing—

(a) subject to sub-paragraph (2), the amount of any retirement pension income—

(i) for which no claim has been made; and

(ii) to which he might expect to be entitled if a claim for it were made;

(b) income from an occupational pension scheme which the applicant elected to defer.

(2) Sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred—

(a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;

(b) a shared additional pension payable under section 55A of the SSCBA;

(c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965(117).

(3) For the purposes of sub-paragraph (2), entitlement has been deferred—

(a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;

(b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and

(c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.

(4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit—

(a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;

(b) fails to purchase an annuity with the funds available in that scheme; and

(c) either—

(i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or

(ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme.

(114) 1948 c.29.

(115) 1977 c.49.

(116) 2006 c.42.

(117) 1965 c.51.

(5) Where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.

(6) The amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the maximum amount of income which may be withdrawn from the fund and must be determined by the authority, taking account of information provided by the pension fund holder.

(7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies is to be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).

(8) In sub-paragraph (4), “money purchase benefits” has the same meaning as in the Pension Schemes Act 1993.

(9) Subject to sub-paragraphs (10) and (12), a person is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of the reduction.

(10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005(118), changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.

(11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.

(12) Sub-paragraph (9) does 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.

(13) 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 will 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 apply, to the date on which the altered rate is to take effect.

(14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with paragraph (13), the authority must—

(a) determine the income and capital of that applicant in accordance with paragraph 35(1) (calculation of applicant's income in savings credit only cases: pensioners) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and

(b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).

(15) For the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where—

(a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and **(118)** S.I. 2005/454.

(b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004(**119**).

(16) In sub-paragraph (15), "registered pension scheme" has the meaning given in section 150(2) of the Finance Act 2004.

Income paid to third parties: pensioners

45.—(1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of the applicant is to be treated as possessed by the applicant.

(2) Sub-paragraph (1) does not apply in respect of a payment of income made 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—

(a) 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(**120**);

(b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and

(c) the person referred to in paragraph (a) and his partner does not possess, or is not treated as possessing, any other income apart from that payment.

(3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the applicant's participation in a service user group.

CHAPTER 5

Income: persons who are not pensioners

Average weekly earnings of employed earners: persons who are not pensioners

46.—(1) Where the income of an applicant who is not a pensioner consists of earnings from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—

(a) over a period immediately preceding the reduction week in which the application is made or treated as made and being a period of—

(i) 5 weeks, if he is paid weekly; or

(ii) 2 months, if he is paid monthly; or

(b) whether or not paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

(2) Where the applicant has been in his employment for less than the period specified in subparagraph (1)(a)(i) or (ii)—

(a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings must be estimated by reference to those earnings;

(119) 2004 c.12.

(120) 1980 c.46.

(b) in any other case, the authority must estimate the applicant's average weekly

earnings(121).

(3) Where the amount of an applicant's earnings changes the authority must estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period will not in any case exceed 52 weeks.

(4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 50 and 51.

Average weekly earnings of self-employed earners: persons who are not pensioners

47.—(1) Where the income of an applicant who is not a pensioner consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by reference to his 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.

(2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 52, 60 and 61 of this scheme.

Average weekly income other than earnings: persons who are not pensioners

48.—(1) The income of an applicant who is not a pensioner 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 an authority to disregard any such income other than that specified in Schedule 8.

(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 purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 53 of this scheme.

Calculation of weekly income of employed earners: persons who are not pensioners

49.—(1) For the purposes of paragraphs 46 (average weekly earnings of employed earners), 48 (average weekly income other than earnings) and 58 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—

(a) does not exceed a week, the weekly amount is to be the amount of that payment;

(b) exceeds a week, the weekly amount is to be determined—

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

(ii) 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.

(2) For the purposes of paragraph 47 (average weekly earnings of self-employed earners) 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.

(121) Powers in section 14A of the LGFA 1992 may be used to confer power to require employers to provide information for these purposes.

Earnings of employed earners: persons who are not pensioners

50.—(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner of a person who is not a pensioner, 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) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
- (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- (l) 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.

(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).

Calculation of net earnings of employed earners: persons who are not pensioners

51.—(1) For the purposes of paragraph 46 (average weekly earnings of employed earners: classes D to F), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.

(2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7.

(3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

(a) any amount deducted from those earnings by way of—

- (i) income tax;
- (ii) primary Class 1 contributions under the SSCBA;
- (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

(4) In this regulation "qualifying contribution" means any sum which is payable periodically as a contribution towards a personal pension scheme.

(5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution is to be determined—

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

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

(6) Where the earnings of an applicant are estimated under paragraph 46(2)(b) (average weekly earnings of employed earners: classes D to F), his net earnings is to be calculated by taking into account those earnings over the assessment period, 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 section 257(1) of the Income and Corporation Taxes Act 1988 (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 which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Earnings of self-employed earners: persons who are not pensioners

52.—(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 payment to which paragraph 31 or 32 of Schedule 8 refers (payments 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

(b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant’s case.

Calculation of income other than earnings: persons who are not pensioners

53.—(1) For the purposes of paragraph 48 (average weekly income other than earnings: persons who are not pensioners), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 54 (capital treated as income: persons who are not pensioners).

(2) There is to be disregarded from the calculation of an applicant’s gross income under subparagraph (1), any sum, where applicable, specified in Schedule 8.

(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 subparagraph (1) must be the gross amount payable.

- (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(122), 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 under sub-paragraph (122) S.I. 2008/794. (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (6) In sub-paragraph (5), “tax year” means a period beginning with 6th April in one year and ending with 5th April in the next.
- (7) Sub-paragraphs (8) and (9) apply where—
- a relevant payment has been made to a person in an academic year; and
 - that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- (8) 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 sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula—
 $(A - (B \times C)) / D$ where—
- 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 paragraph 79(5);
- 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 = 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 79(2) 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 = the number of reduction weeks in the assessment period.
- (9) 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 sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula in sub-paragraph (8) but as if—
- 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 paragraph 79(5).
- (10) In this regulation—
- “academic year” and “student loan” have the same meanings as in Part 11 (students);
- “assessment period” means—
- 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;
 - 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—
 - the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
 - 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—
- 1st January and ending on 31st March;
 - 1st April and ending on 30th June;

(e) 1st July and ending on 31st August; or

(f) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 74(7) or both.

(11) For the avoidance of doubt there must be included as income to be taken into account under sub-paragraph (1)—

(a) any payment to which paragraph 40(2) or 50(2) (payments not earnings) 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 dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

Capital treated as income: persons who are not pensioners

54.—(1) Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with Chapter 7 of this Part exceeds £16,000, be treated as income.

(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 (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

Notional income: persons who are not pensioners

55.—(1) An applicant who is not a pensioner is to be treated as possessing income of which he 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.

(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) 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 paragraph 50(2)(a) of Schedule 9 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a);

(e) any sum to which paragraph 51(a) of Schedule 9 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 (11) 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.

(3) Any payment of income, other than a payment of income specified in sub-paragraph (4), 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.

(4) Sub-paragraph (3) 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 or the Independent Living Fund (2006);

(b) pursuant to section 19(1)(a) of the Coal Industry Act 1994(**123**) (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(**124**);

(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—

(**123**) 1994 c.21.

(**124**) S.I. 1996/207.

(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 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.

(6) Subject to sub-paragraph (7), 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.

(7) Sub-paragraph (6) 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.
- (8) In sub-paragraph (7)(c) "work placement" means practical work experience which is not undertaken in expectation of payment.
- (9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.
- (10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) 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 paragraph 41(2) or 51(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) 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 section 257(1) of the Income and Corporation Taxes Act 1988 (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.
- (11) Sub-paragraphs (1), (2), (3) and (6) 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.

CHAPTER 6

Income: further provisions applying to pensioners and persons who are not pensioners

Calculation of income on a weekly basis

56.—(1) Subject to paragraph 59 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
- (b) by adding to that amount the weekly income calculated—
 - (i) if the applicant is a pensioner, under paragraph 69 (tariff income: pensioners);
 - (ii) if the applicant is a person who is not a pensioner, under paragraph 70 (tariff income: persons who are not pensioners); and
- (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 57 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that subparagraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

(2) The conditions of this paragraph are that—

(a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case; and

(b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.

(3) The maximum deduction to which paragraph (1)(c) above refers is to be—

(a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;

(b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

Treatment of child care charges

57.—(1) This paragraph applies where an applicant 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).

(2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must 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 SSCBA;

(c) is paid an employment and support allowance;

(d) 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 (General) Regulations 1987; or

(e) 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(**125**).

(3) This sub-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 sub-paragraph (2)(d) or (e) 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 sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (10).

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

(a) in the case of any child of the applicant'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 applicant'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 sub-paragraph (8) and are not paid—

(**125**) S.I. 1975/556.

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

(b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with paragraph 7 (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 the child wholly or mainly in the child's home.

(8) The care to which sub-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; or

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

(c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010~~(126)~~; 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~~(127)~~; 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) of that Act, 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 2002; or

(g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006~~(128)~~; 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

~~(126)~~ 2010 c.1.

~~(127)~~ S.I. 2010/2574 (W.214).

~~(128)~~ 2006 c.21.

(l) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002~~(129)~~; or

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

(9) 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.

(10) Relevant child care charges must 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.

(11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—

(a) the applicant is a pensioner and the other member of the couple is aged not less than 80;

(b) the applicant is a pensioner and the other member of the couple is aged less than 80, and—

(i) the additional conditions specified in paragraph 10 of Schedule 3 to this scheme are treated as applying in his case; and

(ii) he satisfies those conditions or would satisfy them 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;

(c) the applicant is not a pensioner, the applicant'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;

(d) the applicant is not a pensioner, the applicant'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 SSCBA;

(e) the applicant'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 2008;

(f) the applicant 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;

(g) the applicant 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;

(h) 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 SSCBA;

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

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

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

(129) S.I. 2002/3214.

(v) personal independence payment under Part 4 of the Welfare Reform Act 2012;

(vi) increase of disablement pension under section 104 of the SSCBA;

(vii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vi) above;

(viii) main phase employment and support allowance;

(i) a pension or allowance to which sub-paragraph (vi) or (vii) of paragraph (h) 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 paragraph 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;

(j) an attendance allowance under section 64 of the SSCBA or disability living allowance under section 71 of that Act would be payable to that person but for—

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

(ii) an abatement as a consequence of hospitalisation;

(k) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);

(l) paragraph (h), (i), (j) or (k) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or (m) 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 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.

(12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(f) applies to the applicant, 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 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.

(13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(g) applies to the applicant, 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 apply to him for so long as he has, or is treated as having, limited capability for work.

(14) For the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person—
(a) to whom an attendance allowance or the care component of disability allowance is payable or would be payable but for—

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

(ii) an abatement as a consequence of hospitalisation;

(b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);

(c) 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; or

(d) 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 that person's sixteenth birthday.

(15) For the purposes of sub-paragraph (1) a woman on maternity leave, paternity leave or adoption leave is to be treated as if she is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided that—

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

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

(c) she is entitled to either statutory maternity pay under section 164 of the SSCBA, statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

(16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and ends 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 (if relevant), statutory maternity pay, statutory paternity pay or statutory adoption pay ends, 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 or qualifying support, statutory maternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credit ends, whichever occurs first.

(17) In sub-paragraphs (15) and (16)—

(a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations 1987; 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 2002 (child care element).

Calculation of average weekly income from tax credits

58.—(1) This paragraph applies where an applicant receives a tax credit.

(2) Where this paragraph applies, the period over which a tax credit is to be taken into account must be the period set out in sub-paragraph (3).

(3) Where the instalment in respect of which payment of a tax credit is made is—

(a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;

(b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;

(c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;

(d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

(4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

Disregard of changes in tax, contributions etc.

59. 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.

Calculation of net profit of self-employed earners

60.—(1) For the purposes of paragraphs 47 (average weekly earnings of self-employed earners: persons who are not pensioners) and 56 (calculation of income on a weekly basis) 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 a pensioner whose employment is carried on in partnership, 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 paragraph 61 (deduction of tax and contributions of self-employed earners); and

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

(c) 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, 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 paragraph 61 (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 paragraphs 1 to 16 of Schedule 7.

- (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 Act, calculated in accordance with paragraph 61; 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 paragraph (3)(a) or (4), in respect of—
- (a) any capital expenditure;
 - (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 subparagraph (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 thereunder 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 paragraph 61 (deduction of tax and contributions for selfemployed 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 selfemployed 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.

Calculation of deduction of tax and contributions of self-employed earners

61.—(1) The amount to be deducted in respect of income tax under paragraph 60(1)(b)(i), (3)(b)(i) or (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 section 257(1) of the Income and Corporation Taxes Act 1988 (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 60(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

(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 60;

(b) in the case of employment as a child minder, one-third of the earnings of that employment.

CHAPTER 7

Capital

Calculation of capital

62.—(1) The capital of an applicant(**130**) to be taken into account must be, subject to subparagraph

(2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 63 (income treated as capital: persons who are not pensioners).

(2) There must be disregarded from the calculation of an applicant’s capital under subparagraph (1), any capital, where applicable, specified in—

(a) Schedule 9, in relation to pensioners;

(b) Schedule 10, in relation to persons who are not pensioners.

(3) In the case of an applicant who is a pensioner, his capital is to be treated as including any payment made to him by way of arrears of—

- (a) child tax credit;
- (b) working tax credit;
- (c) state pension credit,

if the payment was made in respect of a period for the whole or part of which a reduction under this scheme was allowed before those arrears were paid.

(4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

Income treated as capital: persons who are not pensioners

63.—(1) This paragraph applies in relation to persons who are not pensioners.

(2) Any bounty derived from employment to which paragraph 9 of Schedule 7 applies and paid at intervals of at least one year is to be treated as capital.

(3) 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.

(4) Any holiday pay which is not earnings under paragraph 40(1)(d) or 50(1)(d) (earnings of employed earners) is to be treated as capital.

(5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10, 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.

(6) 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.

(7) 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 Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, is to be treated as capital.

(8) 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.

(130) See paragraph 22A for the capital limit for eligibility of £16,000.

(9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

(10) Any arrears of working tax credit or child tax credit must be treated as capital.

Calculation of capital in the United Kingdom

64. 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 per cent; and
- (b) the amount of any encumbrance secured on it.

Calculation of capital outside the United Kingdom

65. Capital which an applicant possesses in a country outside the United Kingdom will 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 per cent and the amount of any encumbrances secured on it.

Notional capital

66.—(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 except to the extent that that capital is reduced in accordance with paragraph 67 (diminishing notional capital rule).

(2) A person who is a pensioner who disposes of capital for the purpose of—

- (a) reducing or paying a debt owed by the applicant; or

- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case, is to be regarded as not depriving himself of it.
- (3) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.
- (4) Except in the case of—
- (a) a discretionary trust; or
 - (b) a trust derived from a payment made in consequence of a personal injury; or
 - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; or
 - (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
 - (e) any sum to which paragraph 50(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a); or
 - (f) any sum to which paragraph 51(a) of Schedule 10 refers; or
 - (g) child tax credit; or
 - (h) 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.
- (5) 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.
- (6) Sub-paragraph (5) 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, or the London Bombings Relief Charitable Fund;
 - (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.

(7) 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 paragraph 62 (calculation of capital) be disregarded; and

(b) he must, subject to sub-paragraph (8), 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.

(8) 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 (7) is to be disregarded.

(9) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Diminishing notional capital rule: pensioners

67.—(1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 66(1) (notional capital), the amount which he is treated as possessing—

(a) in the case of a week that is subsequent to—

(i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or

(ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);

(b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where— (i) that week is a week subsequent to the relevant week; and (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

(2) This sub-paragraph applies to a reduction week where the applicant satisfies the conditions that—

(a) he is in receipt of a reduction in council tax under this scheme; and

(b) but for paragraph 66(1), he would have received a greater reduction in council tax under this scheme in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) must be equal to the aggregate of—

(a) an amount equal to the additional amount of the reduction in council tax to which subparagraph (2)(b) refers;

(b) where the applicant has also claimed state pension credit, the amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);

(c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);

(d) where the applicant has also claimed a jobseeker's allowance, the amount of an incomebased jobseeker's allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and

(e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is a pensioner and would have been entitled to a reduction in council tax under this scheme in the relevant week but for paragraph 66(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—

(a) the amount of the reduction in council tax to which the applicant would have been entitled in the relevant week but for paragraph 66(1);

(b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;

(c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—

(i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or

(ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;

(d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and

(e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) (“the relevant amount”) is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

(a) dividing the relevant amount by the number equal to the number of days in that partweek, and

(b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under that subparagraph if the applicant makes a further claim for a reduction in council tax and the conditions in sub-paragraph (8) are satisfied, and in such a case—

(a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and

(b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further claim is made 26 or more weeks after—

(i) the date on which the applicant made a claim for a reduction in council tax in respect of which he was first treated as possessing the capital in question under paragraph 66(1);

(ii) in a case where there has been at least one re-determination in accordance with subparagraph (11), the date on which he last made a claim for a reduction in council tax which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to a reduction in council tax, whichever last occurred; and (b) the applicant would have been entitled to a reduction in council tax under this scheme but for paragraph 66(1).

(9) The amount as re-determined pursuant to sub-paragraph (6) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—
“part-week”—

(a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction in council tax under this scheme is allowed;

(b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;

(c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—

(i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and

(ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 66(1)—

(a) was first taken into account for the purpose of determining his entitlement to a reduction; or

(b) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction; and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

Diminishing notional capital rule: persons who are not pensioners

67A.—(1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 66(1) (notional capital), the amount which he is treated as possessing—

(a) in the case of a week that is subsequent to—

(i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or

(ii) a week which follows that relevant week and which satisfies those conditions,

is to be reduced by an amount determined under sub-paragraph (3);

(b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—

(i) that week is a week subsequent to the relevant week; and

(ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

(2) This sub-paragraph applies to a reduction week (or, in the case of persons who are not pensioners, part-week) where the applicant satisfies the conditions that—

(a) he is in receipt of a reduction in council tax under this scheme; and

(b) but for paragraph 66(1), he would have received a greater reduction in council tax under this scheme in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is equal to the aggregate of—

(a) an amount equal to the additional amount of the reduction in council tax to which subparagraph (2)(b) refers;

(b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);

(c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which subparagraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital);

(d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is not a pensioner and would have been entitled to a reduction in council tax in the relevant week but for paragraph 66(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing must be equal to the aggregate of—

(a) the amount of council tax benefit to which the applicant would have been entitled in the relevant week but for paragraph 66(1);

(b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—

(i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or

(ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;

(c) if the applicant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;

(d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and

(e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

(a) dividing the relevant amount by the number equal to the number of days in that partweek, and

(b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under the appropriate sub-paragraph if the applicant makes a further claim for a reduction in council tax and the conditions in sub-paragraph (8) are satisfied, and in such a case—

(a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and

(b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further claim is made 26 or more weeks after—

(i) the date on which the applicant made a claim for a reduction in council tax in respect of which he was first treated as possessing the capital in question under paragraph 66(1);

(ii) in a case where there has been at least one re-determination in accordance with subparagraph (7), the date on which he last made a claim for a reduction in council tax which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to a reduction in council tax,

whichever last occurred; and

(b) the applicant would have been entitled to a reduction in council tax under this scheme but for paragraph 66(1).

(9) The amount as re-determined pursuant to sub-paragraph (6) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

(a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction in council tax under this scheme is allowed;

(b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;

(c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—

(i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker’s allowance is payable; and

(ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 66(1)—

(a) was first taken into account for the purpose of determining his entitlement to a reduction; or

(b) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction, and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

Capital jointly held

68. Except where an applicant possesses capital which is disregarded under paragraph 66(7) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

Calculation of tariff income from capital: pensioners

69. Subject to paragraph 62(2)(a), the capital of an applicant who is a pensioner is to be treated as if it were a weekly income of—

(a) £1 for each £500 in excess of £10,000; and

(b) £1 for any excess which is not a complete £500.

Calculation of tariff income from capital: persons who are not pensioners

70.—(1) Where the capital of an applicant who is not a pensioner calculated in accordance with this Part exceeds £6,000, it must be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £6,000 but not exceeding £16,000.

(2) Notwithstanding sub-paragraph (1) where any part of the excess is not a complete £250 that part must be treated as equivalent to a weekly tariff income of £1.

(3) For the purposes of sub-paragraph (1), capital includes any income treated as capital under paragraph 63 (income treated as capital).

PART 11
Students

CHAPTER 1
General

Interpretation

71.—(1) In this Part—

“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;

“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;

“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;

“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;

“covenant income” means the gross income payable to a full-time student under a Deed of Covenant by his parent;

“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, any body 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;

“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;

“full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

“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 paragraph 12 of Schedule 4 or paragraph 53 of Schedule 5 applies;

“grant income” means—

(a) any income by way of a grant;

(b) any contribution whether or not it is paid;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

“last day of the course” means—

(a) 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;

(b) 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;

“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;

(c) 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;

“periods of experience” means periods of work experience which form part of a sandwich course;

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations 1996;

“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;

“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 (“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;

“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;

“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(131), 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.

(2) 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 it or is dismissed from it.

(3) 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 fulltime 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.

(4) In sub-paragraph (2), “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.

Treatment of students

72. This scheme has effect in relation to students subject to paragraph 23 (class of person excluded from this scheme: students) and the following provisions of this Part.

Students who are excluded from entitlement to a council tax reduction under this scheme

73.—(1) Subject to sub-paragraphs (2) and (6), for the purposes of paragraph 23 (class of person excluded from this scheme: students), this paragraph applies to full-time students and 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;

(131) 1998 c.30.

(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, boarded out within the meaning of the Social Work (Scotland) Act 1968;

(i) who is—

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

(ii) 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 section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;

(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)(i)(i) the student must have begun, or been enrolled or accepted onto, the course before attaining the age of 19.

(4) 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.

(5) 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(132).

(6) A full-time student to whom paragraph (i) of sub-paragraph (2) 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.

(7) Sub-paragraph (1) does not apply to a full-time student for the period specified in subparagraph (8) 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 subparagraph (8).

(8) The period specified for the purposes of sub-paragraph (7) 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.

CHAPTER 2

Income

Calculation of grant income

74.—(1) The amount of a student's grant income to be taken into account must, subject to subparagraphs

(2) and (3), be the whole of his grant income.

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

(a) intended to meet tuition fees or examination fees;

(b) in respect of the student's disability;

(c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;

(d) on account of the student maintaining a home at a place other than that at which he resides during his course;

(e) 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;

(f) intended to meet the cost of books and equipment;

(g) intended to meet travel expenses incurred as a result of his attendance on the course;

(h) intended for the child care costs of a child dependant;

(i) 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—

(132) 1988 c.40.

(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 dependants 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.

(5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—

(a) subject to sub-paragraph (8), 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 dependants 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 dependants under Part 3 of Schedule 2 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 dependants to which neither sub-paragraph (6) nor paragraph 78(2) (other amounts to be disregarded) applies, 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.

Calculation of covenant income where a contribution is assessed

75.—(1) 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, subject to sub-paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant must be determined—

(a) by dividing the amount of income which falls to be taken into account under subparagraph (1) by 52 or 53, whichever is reasonable in the circumstances; and

(b) by disregarding £5 from the resulting amount.

(3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 74(2)(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

Covenant income where no grant income or no contribution is assessed

76.—(1) 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 74(2)(a) to (e) (calculation of grant income) 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 74(2)(f) and (3) (calculation of grant income) 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.

(2) 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 subparagraphs

(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 74(2)(a) to (e); and

(b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 74(2)(f) and (g) and (3).

Relationship with amounts to be disregarded under Schedule 8

77. No part of a student's covenant income or grant income shall be disregarded under paragraph 19 of Schedule 8.

Other amounts to be disregarded

78.—(1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 79 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 74(2) (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded.

(2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 74(2) or (3), 75(3), 76(1)(a) or (c) or 79(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

Treatment of student loans

79.—(1) A student loan is to be treated as income.

(2) 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" shall have 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 there shall be disregarded £10.
- (3) 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.
- (4) 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.
- (5) 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.

Treatment of payments from access funds

80.—(1) This paragraph applies to payments from access funds that are not payments to which paragraph 83(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 paragraph 40 of Schedule 8—

(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.

Disregard of contribution

81. 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.

Further disregard of student's income

82. 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.

Income treated as capital

83.—(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.

Disregard of changes occurring during summer vacation

84. 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.

PART 12
Extended reductions

CHAPTER 1
Extended reductions: pensioners

Extended reductions: pensioners

85. Paragraphs 86 to 91 apply in relation to applicants who are pensioners.

Extended payments (qualifying contributory benefits): pensioners

86.—(1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) must be entitled to an extended reduction (qualifying contributory benefits) where—

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
- (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,
- and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to a reduction under this scheme by virtue of the general conditions of entitlement (**133**) where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;

(133) As to which see Part 4 of this scheme.

- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

Duration of extended reduction period (qualifying contributory benefits): pensioners

87.—(1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant who is receiving the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits): pensioners

88.—(1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) the applicant is entitled to shall be the greater of—

(a) the amount of council tax reduction to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;

(b) the amount of reduction under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if paragraph 86 (extended reductions (qualifying contributory benefits):

pensioners) did not apply to the applicant; or

(c) the amount of reduction under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 86 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes a claim for a reduction under this scheme, no reduction shall be awarded during the extended reduction period.

Extended reductions (qualifying contributory benefits)—movers: pensioners

89.—(1) This paragraph applies—

(a) to a mover(134); and

(b) from the Monday following the day of the move.

(2) The amount of the extended reduction (qualifying contributory benefit) awarded from the Monday from which this paragraph applies until the end of the extended reduction period shall be the amount of reduction under this scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(134) See also paragraph 103 in relation to persons moving into the area of the authority from another authority's area.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a billing authority other than this one, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—

(a) the second authority; or

(b) the mover directly.

Relationship between extended reduction (qualifying contributory benefits) and entitlement to council tax benefit under the general conditions of entitlement: pensioners

90.—(1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 86(1)(b), that reduction does not cease to have effect until the end of the extended reduction period.

(2) Part 13 (period of entitlement and changes of circumstances) shall not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 88(1)(a) or paragraph 89(2) (amount of extended reduction — movers: pensioners).

Continuing reductions where state pension credit claimed: pensioners

91.—(1) This paragraph applies where—

(a) the applicant is entitled to a reduction under this scheme;

(b) sub-paragraph (2) is satisfied; and

(c) either—

(i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or

(ii) the applicant's partner has actually claimed state pension credit.

(2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—

(a) the applicant's award of—

(i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or

(ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit or the age of 65; and

(b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a reduction under this scheme shall continue to be awarded for the period of 4 weeks beginning on the day following the day the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under this scheme.

(4) Where a reduction under this scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3) above, and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under this scheme shall continue to be awarded until the end of the reduction week in which the last day of that period falls.

(5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—

(a) the whole of the income and capital of the applicant is to be disregarded;

(b) the maximum council tax benefit of the applicant is to be that which was applicable in his case immediately before that period commenced.

(6) The maximum council tax benefit is to be calculated in accordance with paragraph 28(1) if, since the date it was last calculated—

(a) the applicant's council tax liability has increased; or

(b) a change in the deduction under paragraph 29 falls to be made.

CHAPTER 2

Extended reductions: persons who are not pensioners

Extended reductions: persons who are not pensioners

92. Paragraphs 93 to 102 apply in relation to applicants who are not pensioners.

Extended reductions: persons who are not pensioners

93.—(1) An applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction where—

(a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;

(b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—

(i) commenced employment as an employed or self-employed earner;

(ii) increased their earnings from such employment; or

(iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and

(c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

(2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the

applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

(3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they shall be treated as being entitled to and in receipt of jobseeker's allowance.

(4) An applicant must be treated as entitled to a reduction under this scheme by virtue of the general conditions of entitlement where—

(a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;

(b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and

(c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

(5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987 (remunerative work: housing costs) applied to that applicant.

Duration of extended reduction period: persons who are not pensioners

94.—(1) Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

(a) at the end of a period of four weeks; or

(b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

Amount of extended reduction: persons who are not pensioners

95.—(1) For any week during the extended reduction period the amount of the extended reduction to which an applicant is entitled is to be the higher of—

(a) the amount of the reduction under this scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;

(b) the amount of reduction under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if paragraph 93 (extended reductions: persons who are not pensioners) did not apply to the applicant; or

(c) the amount of reduction under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 93 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction under this paragraph and the applicant's partner makes a claim for a reduction under this scheme, no amount of reduction under this scheme is to be awarded by the authority during the extended reduction period.

Extended reductions—movers: persons who are not pensioners

96.—(1) This paragraph applies—

(a) to a mover; and

(b) from the Monday following the day of the move.

(2) The amount of the extended reduction awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme to which the mover was eligible for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a billing authority other than this one, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—

(a) the second authority; or

(b) the mover directly.

Relationship between extended reduction and entitlement to reduction under the general conditions of entitlement: persons who are not pensioners

97.—(1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 93(1)(b), that entitlement does not cease until the end of the extended reduction period.

(2) Paragraphs 104 and 105 do not apply to any extended reduction payable in accordance with paragraph 93(1)(a) or 96(2) (amount of extended reduction—movers: persons who are not pensioners).

Extended reductions (qualifying contributory benefits): persons who are not pensioners

98.—(1) An applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction (qualifying contributory benefits) where—

(a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
(b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—

(i) commenced employment as an employed or self-employed earner;

(ii) increased their earnings from such employment; or

(iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;

(c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and

(d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to a reduction under this scheme by virtue of the general conditions of entitlement where—

(a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;

(b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and

(c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners

99.—(1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

(a) at the end of a period of four weeks; or

(b) on the date on which the applicant entitled to the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners

100.—(1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant is to be the greater of—

(a) the amount of reduction under this scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;

(b) the amount of reduction under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if paragraph 98 (extended reductions (qualifying contributory benefits):

persons who are not pensioners) did not apply to the applicant; or

(c) the amount of reduction under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 98 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction shall be allowed by the appropriate authority during the extended reduction period.

Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners

101.—(1) This paragraph applies—

(a) to a mover; and

(b) from the Monday following the day of the move.

(2) The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was awarded to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to another authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—

(a) that other authority; or

(b) the mover directly.

Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction under the general conditions of entitlement: persons who are not pensioners

102.—(1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 98(1)(b), that reduction does not cease until the end of the extended reduction period.

(2) Paragraphs 104 and 105 do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 100(1)(a) or 101(2) (amount of extended reduction—movers: persons who are not pensioners).

CHAPTER 3

Extended reductions: movers in the authority's area

Extended reductions: applicant moving into the authority's area

103.Where—

(a) an application is made to a billing authority ("the current authority") for a reduction under this scheme, and

(b) the applicant, or the partner of the applicant, is in receipt of an extended reduction from—

(i) another billing authority in England;

(ii) a billing authority in Wales;

(iii) a local authority in Scotland, or

(iv) a local authority in Northern Ireland,

the current billing authority must reduce any reduction to which the applicant is entitled under this scheme by the amount of that extended reduction.

PART 13

Period of entitlement and change of circumstances

Date on which entitlement begins

104.—(1) Subject to sub-paragraph (2), 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 shall be so entitled from the reduction week following the date on which that application is made or is treated as made.

(2) 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 shall be so entitled from that reduction week.

Date on which change of circumstances is to take effect

105.—(1) Except in cases where paragraph 59 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 106, 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 shall be 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 12 of that Act, it shall take 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 shall take 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 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 timeously 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) Sub-paragraph (11) applies if—

(a) the applicant or his partner has attained the age of 65; and

(b) either—

(i) a non-dependant took up residence in the applicant's dwelling; or

(ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 29 increased.

(11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

(12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—

(a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—

(i) the date on which the applicant's entitlement to a reduction under this scheme first

began; or

(ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred; where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.

(13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is to be the first day of the next reduction week to commence after the date determined under that sub-paragraph.

Change of circumstances where state pension credit in payment

106.—(1) Sub-paragraphs (2) and (3) apply where—

(a) the applicant is in receipt of state pension credit;

(b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and

(c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of a reduction he receives under this scheme.

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—

(a) an increase in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the increased rate; or

(b) a decrease in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—

(i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or

(ii) state pension credit is increased, whichever is the later.

(3) Where the change of circumstance (“the relevant change”) is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under this scheme reduces—

(a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect from the first day of the reduction week from which state pension credit was reduced; or

(b) in any other case the relevant change takes effect from the first day of the reduction week next following the date on which—

(i) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or

(ii) state pension credit is reduced, whichever is the later.

(4) Where the change of circumstance is that state pension credit is reduced and in consequence of the change, the amount of a reduction he receives under this scheme is increased, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the reduced rate.

(5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—

(a) the authority receives notification from the Secretary of State of the award of state pension credit; or

(b) entitlement to state pension credit begins, whichever is the later.

(6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—

(a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and

(b) a change of circumstances which is a relevant determination, each of which results in a change in the amount of reduction the applicant receives under this scheme, the change of circumstances referred to in sub-paragraph (b) takes effect from the day

specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

(7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of a reduction the applicant receives under this scheme, the change takes effect from the first day of the reduction week next following the date in respect of which the guarantee credit is first payable.

(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 91 (continuing reductions where state pension credit claimed), that change takes effect on the first day of the first reduction week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by—

(a) the authority or a person—

(i) authorised to carry out any function of the authority relating to this scheme; or

(ii) providing services relating to this scheme directly or indirectly to the authority; or

(b) an officer of—

(i) the Department for Work and Pensions; or

(ii) the Commissioners of Inland Revenue,

acting as such, but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant's or, as the case may be, the applicant's partner's income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 35(1).

PART 14

Applications (including duties to notify authority of change of circumstances)

Making an application

107.—(1) In the case of a couple or 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.

(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) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(**135**) who has power to apply or, as the case may be, receive benefit on his behalf; or

(c) 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, 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 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 4 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 113(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.

Date on which an application is made

108.—(1) Subject to sub-paragraph (7), the date on which an application is made is—

(a) in a case where—

(i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and

(ii) the application for a reduction under this scheme is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office, (135) 2000 asp 4.

the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;

(b) in a case where—

(i) an applicant or his partner is a person in receipt of a guarantee 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 authority's offices within one month of the date of the change, the date on which the change takes place;

(c) in a case where—

(i) an award of income support, an income-based jobseeker's allowance or an 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 for a reduction under this scheme 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;

(d) 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 authority's offices within one month of the date of the change, the date on which the change takes place;

(e) 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;

(f) except where paragraph (a), (b) or (e) 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 first notification;

(g) in any other case, the date on which the application is received at the offices of the authority.

(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) Where the defect referred to in paragraph 7 of Schedule 1 to this scheme (application by telephone)—

(a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance;

(b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide on the application.

(4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.

(5) The conditions are that—

(a) where paragraph 4(a) of Schedule 1 (incomplete form) applies, the authority receives at the offices of the authority the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or

(b) where paragraph 4(b) of Schedule 1 (application not on approved form or further information requested by authority) applies—

(i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be,

(ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request,

or, in either case, within such longer period as the authority may consider reasonable; or

(c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.

(6) 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.

(7) 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—

(a) in the case of an application made by a pensioner, the seventeenth reduction week following the date on which the application is made, or

(b) in the case of an application made by a person who is not a pensioner, 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.

(8) Sub-paragraph (7) applies in the case of a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit.

Back-dating of applications: pensioners

109.—(1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.

(2) In any case where paragraph 108(1)(a) applies, sub-paragraph (1) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

Back-dating of applications: persons who are not pensioners

110.—(1) Where an applicant who is a person who is not a pensioner—

(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 6 months before the date the claim was made;

(c) the day 6 months before the date when the applicant requested that the application should include a past period.

Information and evidence

111.—(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 who is a partner of a person or non-dependant resident in the dwelling with the person making an application for a reduction under this scheme;

(ii) is a person treated as not being in Great Britain for the purposes of this scheme(136);

(iii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and

(iv) has not previously been allocated a national insurance number.

(4) Subject to sub-paragraph (5), 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 113 (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 113, 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 made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

(b) a payment which is disregarded under paragraph 16 of Schedule 9 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);

(c) a payment which is disregarded under paragraph 29(9)(b) or (c) (non-dependant deductions) or paragraph 2(b) or (c) of Schedule 4 (second adult's gross income) other than a payment under the Independent Living Fund (2006).

(8) Where an applicant or a person to whom a reduction under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information—

(a) the name and address of the pension fund holder(137);

(b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

Amendment and withdrawal of application

112.—(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 offices of the authority. (136) As to which, see paragraphs 21 to 21B. (137) For provisions requiring a pension fund holder to provide information to the billing authority see regulations under section 14A of the Local Government Finance Act 1992.

(2) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the amendment may also be made by telephone.

(3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.

(4) A person who has made an application may withdraw it by notice to the offices of the authority at any time before a decision has been made on it.

(5) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the withdrawal may also be made by telephone.

(6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) shall have effect when it is received.

Duty to notify changes of circumstances

113.—(1) Subject to sub-paragraphs (3), (6) and (7), 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 telephone—

(i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 1 unless the authority determines that in any particular case or class of case notification may not be given by telephone; or

(ii) in any case or class of case where the authority determines that notice may be given by telephone; or

(c) by any other means which the authority agrees to accept in any particular case.

(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 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.

(6) The duty imposed on a person by sub-paragraph (1) includes—

(a) in the case of a person falling within class C (pensioners: alternative maximum council tax reduction) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs;

(b) in the case of a person falling within class F (persons who are not pensioners: alternative maximum council tax reduction) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the date when this occurs.

(7) A person who has been granted a reduction under this scheme who is also on state pension credit must report—

(a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;

(b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

(8) In addition to the changes required to be reported under sub-paragraph (6), a person whose state pension credit comprises only a savings credit must also report—

(a) changes affecting a child living with him which may result in a change in the amount of reduction under this scheme allowed in his case, but not changes in the age of the child;

(b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;

(c) any change in the income or capital of—

(i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 33 (circumstances in which income of a non-dependant is to be treated as applicant's); or

(ii) a person to whom paragraph 35(2)(e) refers,

and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

(9) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (6) and (7).

PART 15 Decisions by authority

Decision by authority

114. The authority must make a decision on an application for a reduction under this scheme within 14 days of paragraphs 108 and 111 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

Notification of decision

115.—(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 imposed by paragraph 113(1)(b);

(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) 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.

(4) The written statement referred to in sub-paragraph (3) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.

(5) 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 (6).

(6) 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—

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

(ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(138) who has power to apply or, as the case may be, receive benefit on the person's behalf; or

(iii) 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,

(c) a person appointed by the authority under paragraph 107(3).

PART 16 Award or payment of reduction

Time and manner of granting reduction under this scheme

116.—(1) Subject to paragraph 119 (payments on death), where 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 the financial year, the authority must discharge his entitlement—

(a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers; or

(b) where—

- (i) such a reduction is not possible; or
 - (ii) such a reduction would be insufficient to discharge the entitlement to a reduction under this scheme; or
 - (iii) the person entitled to the reduction is jointly and severally liable for the council tax and the authority determines that such a reduction would be inappropriate,
- (138) 2000 asp 4.

by making payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

(2) The authority must notify the person entitled to a reduction under this scheme of the amount of that reduction and how his entitlement is to be discharged in pursuance of sub-paragraph (1).

(3) In a case to which sub-paragraph (1)(b) refers—

(a) if the amount of the council tax for which he remains liable in respect of the financial year, after any reduction to which sub-paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to a reduction under this scheme in respect thereof to be discharged, upon the final instalment of that tax becoming due any outstanding reduction—

(i) must be paid to that person if he so requires; or

(ii) in any other case must (as the authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's council tax as it has effect for any subsequent year;

(b) if that person has ceased to be liable for the authority's council tax and has discharged the liability for that tax, the outstanding balance (if any) of the reduction under this scheme in respect thereof must be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter

(c) in any other case, the reduction under this scheme must be paid within 14 days of the receipt of the application at the offices of the authority or, if that is not reasonably practicable, as soon as practicable thereafter.

(4) For the purposes of this paragraph "instalment" means any instalment of the authority's council tax to which regulation 19 of the Council Tax (Administration and Enforcement) Regulations 1992 refers (council tax payments).

Person to whom reduction is to be paid

117.—(1) Subject to paragraph 119 (payment on death) and sub-paragraph (2), any payment of the amount of a reduction under paragraph 116(1)(b) must be made to the person who is entitled to the reduction.

(2) 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 107(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 107(5), the amount of the reduction may be paid to that person.

Shortfall in reduction

118. Where, on the revision of a decision allowing a reduction under this scheme to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the authority must either—

(a) make good any shortfall in reduction which is due to that person, by reducing so far as possible the next and any subsequent payments he is liable to make in respect of the council tax of the authority as it has effect for the financial year until that shortfall is made good; or

(b) where this is not possible or the person concerned so requests, pay the amount of any shortfall in reduction due to that person within 14 days of the revision of the decision being made or if that is not reasonable practicable, as soon as possible afterwards.

Payment on the death of the person entitled

119. Where the person entitled to any reduction under this scheme has died and it is not possible to award the reduction which is due in the form of a reduction of the council tax for which he was liable, the authority must make payment of the amount of the reduction to his executor or administrator in accordance with regulation 58(4) of the Council Tax (Administration and Enforcement) Regulations 1992(139).

SCHEDULE 1 Paragraph 11
Procedural matters

PART 1

Procedure for an application for a reduction under this scheme

Procedure by which a person may apply for a reduction under this scheme

1. Paragraphs 2 to 7 apply to an application for a reduction under this scheme.

2. An application may be made—

(a) in writing,

(b) by means of an electronic communication in accordance with Part 4 of this Schedule, or

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

3.—(1) An application which is made in writing must be made to the offices of the authority on a properly completed form.

(2) The form must be provided free of charge by the authority for the purpose.

4. Where an application made in writing is defective because—

(a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or

(b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence, the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.

(2) An application made on a form provided by the authority is properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

5.—(1) If an application made by electronic communication is defective the authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

(139) S.I. 1992/613.

6. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.

7.—(1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

PART 2

Procedure for making an appeal

Procedure by which a person may make an appeal against certain decisions of the authority

8. A person who is aggrieved by a decision of the authority under this scheme may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

9. The authority must—

(a) consider the matter to which the notice relates;

(b) notify the aggrieved person in writing—

(i) that the ground is not well founded, giving reasons for that belief; or

(ii) that steps have been taken to deal with the grievance, stating the steps taken.

10. Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(b) within two months of the service of his notice, he may appeal to a valuation tribunal.

PART 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

11. An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act must be made—

- (a) in writing,
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule.

PART 4

Electronic communication

Interpretation

12. In this Part of this Schedule—

“information” includes an application for a reduction under this scheme and a 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.

Conditions for the use of electronic communication

13.—(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 approved 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 paragraph “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.

Use of intermediaries

14. 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.

Effect of delivering information by means of electronic communication

15.—(1) 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 of this Schedule; and
- (b) by or under an enactment, are satisfied.

(2) The authority may, by a direction, 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 (1).

(3) Information shall 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.

Proof of identity of sender or recipient of information

16. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

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

(b) 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.

Proof of delivery of information

17.—(1) 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 shall be presumed to have been the case where—

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

(2) 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 shall be presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

(3) 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 shall be presumed to be that recorded on an official computer system.

Proof of content of information

18. 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 shall be presumed to be that recorded on an official computer system.

SCHEDULE 2 Paragraph 24 Applicable amounts: pensioners

PART 1 Personal allowances

Personal allowance

1. The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 24(1)(a).

Column (1)

Person, couple or polygamous marriage

Column (2)

Amount

(1) Single applicant or lone parent— (1)

(a) aged under 65;

(b) aged 65 or over.

(a) £137.35;

(b) £157.90.

(2) Couple—

(a) both members aged under 65;

(b) one or both members aged 65 or over.

(2)

(a) £209.70;

(b) £236.80.

(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65—

(a) for the applicant and the other party to the marriage;

(b) for each additional spouse who is a member of the same household as the applicant.

(3)

(a) £209.70;

(b) £72.35.

(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over—

(a) for the applicant and the other party to the marriage;

(b) for each additional spouse who is a member of the same household as the applicant.

(4)

(a) £236.80;

(b) £78.90.

Child or young person amounts

2.—(1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 24(1)(b).

Column (1)

Child or young person

Column (2)

Amount

Person in respect of the period—

(a) 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;

(b) beginning on the first Monday in September following that person's

sixteenth birthday and ending on the day preceding that person's twentieth birthday.

(a) £62.33;

(b) £62.33.

(2) In column (1) of the table "the first Monday in September" means the Monday which first occurs in the month of September in any year.

PART 2

Family premium

Family premium

3. The amount for the purposes of paragraph 24(1)(c) in respect of a family of which at least one member is a child or young person is £17.40.

PART 3

Premiums

4. The premiums specified in Part 4 shall, for the purposes of paragraph 24(1)(d), be applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.

5.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person shall 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 provision of those Regulations, he would be in receipt of that benefit; and

(b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under 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.

(2) For the purposes of the carer premium under paragraph 9 of this Schedule, a person shall be treated as being in receipt of a carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle

rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012.

Severe disability premium

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

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

(a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—

(i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; and

(ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and

(iii) no person is entitled to, and in receipt of, a carer's allowance in respect of caring for him;

(b) in the case of an applicant who has a partner—

(i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012;

(ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and

(iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

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

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

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

(5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of—

(a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or

(b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).

(7) For the purposes of sub-paragraph (2)(b) a person shall be treated—

(a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

(b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so in receipt, notwithstanding section 86 of that Act and regulations made thereunder;

(c) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—

(a) no account shall be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and

(b) references to a person being in receipt of a carer's allowance shall include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit).

Enhanced disability premium

7.—(1) The condition is—

(a) that the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act in respect of a child or young person who is a member of the applicant's family; or

(b) (as the case may be) that the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate prescribed in accordance with Part 4 of that Act.

(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).

Disabled child premium

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

(a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance or payment because he is a patient, provided that the child or young person continues to be a member of the family; or

(b) is blind within the meaning of paragraph 6(4) of this Schedule or treated as blind in accordance with paragraph 6(5); or

(c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

Carer premium

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

(2) Where a carer premium has been awarded but—

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

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

(3) The relevant date for the purposes of sub-paragraph (2) is—

(a) in a case within sub-paragraph (2)(a), the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);

(b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

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

Persons in receipt of concessionary payments

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

Person in receipt of benefit

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

PART 4

Amounts of premium specified in Part 3

Provision Amount

12.—(1) Severe Disability Premium—

(a) where the applicant satisfies the condition in paragraph 6(2)(a);

(b) where the applicant satisfies the condition in paragraph 6(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 6(7); (ii) in a case where there is no-one in receipt of such an allowance.

(1)

(a) £55.30;

(b)

(i) £55.30;

(ii) £110.60.

(2) Enhanced disability premium. (2) £21.63 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.

(3) Disabled Child Premium. (3) £53.62 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied

(4) Carer Premium. (4) £31.00 in respect of each person who satisfies the condition specified in paragraph 9.

SCHEDULE 3 Paragraph 25

Applicable amounts: persons who are not pensioners

PART 1

Personal allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of paragraphs 25(1)(a) and 26(1)(a) and (b)—

Column (1)

Person or couple

Column (2)

Amount

(1) A single applicant who— (1)

(a) is entitled to main phase employment and support allowance;

(a) £67.50;

(b) is aged not less than 25; (b) £67.50;

(c) is aged not less than 18 but less than 25. (c) £53.45.

(2) Lone parent. (2) £67.50.

(3) Couple. (3) £105.95.

2. For the purposes of paragraph 1 of this Schedule an applicant is entitled to main phase employment and support allowance if—

- (a) paragraph 18 of this Schedule 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) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of paragraphs 25(1)(b) and 26(1)(c) of this scheme—

Column (1)

Child or Young person

Column (2)

Amount

Person in respect of the period—

(a) 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;

£62.33

(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.

£62.33

(2) In column (1) of the table in sub-paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.

PART 2

Family premium

4.—(1) The amount for the purposes of paragraphs 25(1)(c) and 26(1)(d) in respect of a family of which at least one member is a child or young person shall be—

- (a) where the applicant is a lone parent to whom sub-paragraph (2) applies, £22.20;
- (b) in any other case, £17.40.

(2) The amount in sub-paragraph (1)(a) shall be applicable to a lone parent—

(a) who was entitled to council tax benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as in force on that date; or

(b) on becoming entitled to council tax benefit where that lone parent—

(i) had been treated as entitled to that benefit in accordance with sub-paragraph (3) as at the day before the date of claim for that benefit; and

(ii) was entitled to housing benefit as at the date of claim for council tax benefit or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit

Regulations 2006, and in respect of whom, all of the conditions specified in sub-paragraph (3) have continued to apply.

(3) The conditions specified for the purposes of sub-paragraph (2) are that, in respect of the period commencing on 6th April 1998—

(a) the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to—

- (i) council tax benefit (in relation to the period prior to 1st April 2013), and
 - (ii) a reduction under this scheme (in relation to the period commencing on 1st April 2013);
- (b) the applicant has not ceased to be a lone parent;

(c) where the applicant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or income-related employment and support allowance or a combination of those benefits;

(d) where the applicant was not entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has not become entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance; and

(e) a premium under paragraph 9 of this Schedule or a component under paragraph 21 or 22 of this Schedule has not become applicable to the applicant.

(4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant shall be treated as entitled to council tax benefit during any period where he was not, or had ceased to be, so entitled and—
(a) throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations 2006 (lone parent rate of family premium); or
(b) he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006 and his applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

PART 3 Premiums

5. Except as provided in paragraph 6 of this Schedule, the premiums specified in Part 4 of this Schedule shall, for the purposes of paragraphs 25(1)(d) and 26(1)(e) of this scheme, be applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 of this Schedule in respect of that premium.

6. Subject to paragraph 7 of this Schedule, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.

7. The following premiums, namely—

- (a) a severe disability premium to which paragraph 11 of this Schedule applies;
- (b) an enhanced disability premium to which paragraph 12 of this Schedule applies;
- (c) a disabled child premium to which paragraph 13 of this Schedule applies; and
- (d) a carer premium to which paragraph 14 of this Schedule applies,

may be applicable in addition to any other premium which may apply under this Schedule.

8.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person shall 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(**140**) 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 14 of this Schedule, a person shall be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

Disability premium

9. 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 10 of this Schedule 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 10(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 10(1)(a) is satisfied by his partner.

(140) S.I. 1979/597.

Additional condition for the disability premium

10.—(1) Subject to sub-paragraph (2) and paragraph 8 of this Schedule, the additional condition referred to in paragraph 9 of this Schedule 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, 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(**141**), mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or

(ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant has since remained continuously entitled to council tax benefit 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 57(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 57(11)(i) (treatment of child care charges); or

(v) is provided by the Secretary of State with an invalid carriage or other vehicle under section 5(2) of the National Health Service Act 1977 (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or

(vi) 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)(vi), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the (**141**) S.I. 2002/2005.

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 shall, on again becoming so incapable of work, immediately thereafter 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 shall 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 shall 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 longterm 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 shortterm 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),

shall in each case 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

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

(2) For the purposes of sub-paragraph (1), an applicant shall 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; and

(ii) subject to sub-paragraph (4), he has no non-dependants 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; 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-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of 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 10(1)(a)(v) and (2),

that partner shall 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 shall 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) of the SSCBA; or

(b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person shall 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, 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 shall 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 shall 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(142) (loss of benefit provisions).

Enhanced disability premium

12.—(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 (142) 2001 c.11.

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 paragraph 57(11)(e) of this scheme (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 paragraph 57(11)(e) and has been for a period of more than 52 weeks.

Disabled child premium

13. 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 10 of this Schedule; 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

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

(3) The relevant date for the purposes of sub-paragraph (2) shall be—

(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 shall 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;

(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

15. For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

Persons in receipt of benefit for another

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

PART 4

Amounts of Premiums Specified in Part 3

Premium Amount

17.—(1) Disability Premium—

(1)

(a) where the applicant satisfies the condition in paragraph 9(a);

(a) £28.85;

(b) where the applicant satisfies the condition in paragraph 9(b).

(b) £41.10.

(2) Severe Disability Premium— (2)

(a) where the applicant satisfies the condition in paragraph 11(2)(a);

(a) £55.30;

(b) where the applicant satisfies the condition in paragraph 11(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);

(b)(i) £55.30;

(ii) (ii) in a case where there is no-one in receipt of such an allowance.

(b)(ii) £110.60.

(3) Disabled Child Premium. (3) £53.62 in respect of each child or young person in respect of whom the condition specified in paragraph 13 of Part 3 of this Schedule is satisfied.

(4) Carer Premium. (4) £31.00 in respect of each person who satisfies the condition specified in paragraph 14.

(5) Enhanced disability premium (5)

(a) £21.63 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;

(b) £14.05 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 12 are satisfied;

(c) £20.25 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.

PART 5

The components

18. Subject to paragraph 20 of this Schedule the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 of this Schedule 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.

19. Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.

20.—(1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10 of this Schedule.

(2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

The work-related activity component

21. The applicant is entitled to the work-related activity 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.

The support component

22. 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.

PART 6

Amount of Components

23. The amount of the work-related activity component is £26.75.

24. The amount of the support component is £32.35.

PART 7

Transitional Addition

25.—(1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 28 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 of this Schedule 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 29 of this Schedule;

(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.

26.—(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 25(2)(b) of this Schedule;

(ii) sub-paragraph (3)(b) of this paragraph; or

(iii) paragraph 27(3)(b) of this Schedule;

(b) within 104 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;

(d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where applicant is a work or training beneficiary) of the Employment and Support Allowance Regulations 2008 applies in respect of the relevant person; and

(e) 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 29), 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 29 of this Schedule;

(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) 5th April 2020.

27.—(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 25(2)(c);
- (ii) paragraph 26(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) either—

(i) 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; or

(ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations 2008 applies in respect of 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 29 of this Schedule), 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 29 of this Schedule;
- (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.

PART 8

Amount of Transitional Addition

28.—(1) Subject to paragraph 29 of this Schedule, 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 29, “basic amount” means the aggregate of such amounts as may apply in the applicant’s case in accordance with paragraph 25(1)(a) to (e) or paragraph 26(1)(a) to (f) of this scheme.

29.—(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 shall 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 shall 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.

SCHEDULE 4 Paragraph 30

Amount of alternative maximum council tax reduction

1.—(1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 30 is determined in accordance with the following Table and in this Table—

(a) “second adult” means any person or persons residing with the applicant to whom paragraph 15(2) or 18(2) (as the case may be) of this scheme applies; and

(b) “persons to whom paragraph 71(1) of this scheme applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit.

(2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less—

(a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under this scheme); and

(b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

(1)

Second adult

(2)

Alternative maximum council tax reduction

(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker’s allowance;

(a) 25 per cent of the council tax due in respect of that day;

(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker’s allowance—

(b)

(i) is less than £177.00 per week; (i) 15 per cent of the council tax due in respect of that day;

(ii) is not less than £177.00 per week but less than £231.00 per week;

(ii) 7.5 per cent of the council tax due in respect of that day;

(c) where the dwelling would be wholly (c) 100 per cent of the council tax due in occupied by one or more persons to whom paragraph 71(1) of this scheme applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income-based jobseeker’s allowance in respect of that day.

- 2.** In determining a second adult's gross income for the purposes of this Schedule, there shall be disregarded from that income—
- (a) any attendance allowance, any disability living allowance under section 71 of the SSCBA, or any personal independence payment under Part 4 of the Welfare Reform Act 2012;
 - (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 53 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
 - (c) any payment which, had his income fallen to be calculated under paragraph 53, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).
- 3.** Where there are two or more second adults residing with the applicant for a reduction under this scheme and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the 1992 Act, his income shall be disregarded in determining the amount of any alternative maximum council tax reduction, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

SCHEDULE 5 Paragraph 39

Sums disregarded from applicant's earnings: pensioners

- 1.** Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—
- (a) £25 in the case of a lone parent;
 - (b) £20 in any other case.
- 2.** In a case where an applicant is a lone parent, £25 of earnings.
- 3.—(1)** In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.
- (2)** This paragraph applies to employment—
- (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(**143**) or a scheme to which section 4 of that Act applies;
 - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005(**144**)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
 - (c) as an auxiliary coastguard in respect of coast rescue activities;
- (143)**
(144) 2005 asp 5.
- (d) in the manning or launching of a lifeboat if the employment is part-time;
 - (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.
- (3)** If—
- (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
 - (b) either of them has, or both of them have, other earnings, so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.
- 4.—(1)** If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.
- (2)** Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.
- (3)** In this paragraph the applicant or his partner is a carer if paragraph 14 of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.
- 5.—(1)** £20 is disregarded if the applicant or, if he has a partner, his partner—
- (a) is in receipt of—
 - (i) long-term incapacity benefit under section 30A of the SSCBA;

- (ii) severe disablement allowance under section 68 of that Act;
 - (iii) attendance allowance under sections 64 to 76 of that Act;
 - (iv) disability living allowance under section 71 to 76 of that Act;
 - (v) personal independence payment under Part 4 of the Welfare Reform Act 2012;
 - (vi) 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;
 - (vii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or
 - (viii) main phase employment and support allowance; or
- (b) is or are registered as blind 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 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
- (c) 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 has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
- (i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;
 - (ii) in any other case, 364 days; or
- (d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 1997 or limited capability for work-related activity within the meaning of section 2(5) of that Act and 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 arising does not apply) applies.
- (2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or been in receipt of a reduction under this scheme and—
- (a) £20 was disregarded in respect of earnings taken into account in that award; and
 - (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.
- (3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—
- (a) entitlement to housing benefit; or
 - (b) receipt of a reduction under a council tax reduction scheme; or
 - (c) employment,
- following the first day in respect of which that benefit is awarded under this scheme.
- (4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.
- 6.—(1) Where—**
- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
 - (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
 - (c) paragraph 34 does not apply,
- the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 1 to 5 and 8 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead of this paragraph.

(3) Notwithstanding paragraph 26 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it shall not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

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

(a) in receipt of a contributory employment and support allowance;

(b) in receipt of incapacity benefit;

(c) in receipt of severe disablement allowance;

(d) being 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.

(6) "Exempt work" means work of the kind described in—

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be); or

(b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General)

Regulations 1995, and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

7. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 6 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full amount disregarded thereunder.

8. Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

(a) £5 shall be disregarded if an applicant who has no partner has earnings;

(b) £10 shall be disregarded if an applicant who has a partner has earnings.

9. Any earnings, other than earnings referred to in paragraph 39(8)(b), derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under this scheme.

10.—(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this Schedule shall be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

(a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

(i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) if he is a member of a couple—

(aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) any amount disregarded under this Schedule;

(b) the amount of child care charges calculated as deductible under paragraph 56(1)(c); and

(c) £17.10.

(4) The provisions of paragraph 10 of this scheme shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph was a reference to 30 hours.

11. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting to that payment into Sterling.

SCHEDULE 6 Paragraph 39

Amounts to be disregarded in the calculation of income other than earnings: pensioners

1. In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following—

(a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);

(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(**145**), 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 sub-paragraphs (a) to (d) above;

(g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

2. The whole of any amount included in a pension to which paragraph 1 relates in respect of—

(a) the applicant's need for constant attendance;

(b) the applicant's exceptionally severe disablement.

3. 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.

4. 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. (**145**) S.I. 2005/439.

5. 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.

6.—(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 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).
- 7.** £15 of any widowed parent's allowance to which the applicant is entitled under section 39A of the SSCBA.
- 8.** £15 of any widowed mother's allowance to which the applicant is entitled under section 37 of the SSCBA.
- 9.** 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 whom 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; or
 - (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.
- 10.** If the applicant—
- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
 - (b) occupies a part of that property; and
 - (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
 - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
 - (ii) the amount paid is £20 or more per week, £20.
- 11.** Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—
- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
 - (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
 - (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
 - (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
 - (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,
- the amount, calculated on a weekly basis, equal to—
- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
 - (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.
- 12.—(1)** Any payment, other than a payment to which sub-paragraph (2) applies, made to the applicant by Trustees in exercise of a discretion exercisable by them.
- (2)** This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—
- (a) obtaining food, ordinary clothing or footwear or household fuel;
 - (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
 - (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.
- (3)** In a case to which sub-paragraph (2) applies, £20 or—
- (a) if the payment is less than £20, the whole payment;

- (b) if, in the applicant's case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10; or
- (c) if, in the applicant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—
- (i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;
- (ii) he has a disregard under paragraph 1(a) to (g), nil.
- (4) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.
- 13.** Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner's partner.
- 14.** Any payment ordered by a court to be made to the applicant or the applicant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.
- 15.** Periodic payments made to the applicant or the applicant's partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant's partner for an injury suffered by him.
- 16.** Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 17.** Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.
- 18.** 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 1 or 2 of the Education Act 1962(**146**) or 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.
- 19.—**(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 under section 2 of the Education Act 1962 (discretionary awards) or 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 18, 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 shall 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.
- 20.—**(1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.
- (2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

21. Except in a case which falls under paragraph 10 of Schedule 5, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

22. Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 9 does not exceed £10,000, any income actually derived from such capital.

23. Except in the case of income from capital specified in Part 2 of Schedule 9, any actual income from capital. (146) 1962 c.12.

24. 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.

SCHEDULE 7 Paragraph 52

Sums disregarded in the calculation of earnings: persons who are not pensioners

1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

(i) the employment has been terminated because of retirement; and

(ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to a reduction under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) any payment of the nature described in—

(aa) paragraph 50(1)(e) of this scheme, or

(bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and

(ii) any award, sum or payment of the nature described in—

(aa) paragraph 50(1)(g) or (i), or

(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals), including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to a reduction under this scheme—

(i) the employment has not been terminated, but

(ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule or paragraph 50(1)(j) of this scheme.

2. In the case of an applicant who, before the first day of entitlement to a reduction under this scheme—

(a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and

(b) has ceased to be engaged in that employment, whether or not that employment has been terminated, any earnings paid or due to be paid in respect of that employment except—

(i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule;

(ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule or paragraph 50(1)(j).

3. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have

been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 52(3) and (4) of this scheme (earnings of self-employed earners) apply.

4.—(1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 32 of this scheme (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 3 (applicable amounts: persons who are not pensioners).

(3) This paragraph applies where—

(a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3; and

(b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5. In a case where the applicant is a lone parent, £25.

6.—(1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under Schedule 3 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.

7. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

(a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;

(b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.

8. In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding paragraph 32 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.

9.—(1) In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant, £20 of earnings derived from one or more employments as—

(a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(147) or a scheme to which section 4 of that Act applies;

(b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;

(c) an auxiliary coastguard in respect of coast rescue activities;

(d) a person engaged part-time in the manning or launching of a life boat;

(e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding paragraph 32 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the applicant's partner is engaged in employment—

(a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20; (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

10. Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

11. In a case to which none of the paragraphs 4 to 10 applies, £5.

12.—(1) Where—

(a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;

(b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and

(c) paragraph 14 does not apply, the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

(3) Notwithstanding paragraph 32 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it shall not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is (147) 2004 c.21. limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

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

(a) in receipt of a contributory employment and support allowance;

(b) in receipt of incapacity benefit;

(c) in receipt of severe disablement allowance; or

(d) being 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.

(6) "Exempt work" means work of the kind described in—

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be) (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work)

(General) Regulations 1995, and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their

partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

13. Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 8 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

14. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.

15. 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.

16. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.

17. Any earnings of a child or young person.

18.—(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 of this Schedule shall be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

(a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

(i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) is a member of a couple and—

(aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) his applicable amount includes a family premium under paragraph 4 of Schedule 3; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—

(aa) the applicant's applicable amount includes a disability premium under paragraph 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 3 respectively;

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in paragraph (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or

(c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12 of this Schedule;

(b) the amount of child care charges calculated as deductible under paragraph 56(1)(c) of this scheme; and

(c) £17.10.

(4) The provisions of paragraph 10 of this scheme shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

19. In this Schedule "part-time employment" means employment in which the person is engaged on average for less than 16 hours a week.

SCHEDULE 8 Paragraph 53

Sums disregarded in the calculation of income other than earnings:
persons who are not pensioners

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 (calculation of income other than earnings).
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 paragraph 55(5) (notional income: persons who are not pensioners).
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(148) as in force at that date, the whole of his income.
11. Any disability living allowance or personal independence payment.
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—
 - (148) S.I. 1999/2734. (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales 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(**149**) 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) shall not apply to a payment which is made or due to be made by—(**149**) 1990 c.35.

(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, £10 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 paragraph 68 (capital jointly held) 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 Schedule 10.

(2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 10 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 paragraph 2(1) of this scheme 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, sections 1 or 2 of the Education Act 1962 or 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 under section 2 of the Education Act 1962 (discretionary awards) or 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 of this Schedule, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount shall 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 of this Schedule 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.—(1) 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.

(2) In this paragraph, “board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.

28.—(1) Any income in kind, except where paragraph 53(11)(b) of this scheme (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(150) (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; (**150**) 2008 c.28.
- (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 16BA of the National Health Service Act 1977 or established by an order made 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(**151**) 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) shall only 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 paragraph 63 of this scheme (income treated as capital: persons who are not pensioners) is to be treated as capital.

37. Any social fund payment made pursuant to Part 8 of the SSCBA (the Social Fund).

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.
(**151**) 1974 c.39.

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 paragraph 32(3) (calculation of income and capital of members of applicant’s family and of a polygamous marriage) to be disregarded under paragraph 75(2)(b) and paragraph 76(1)(d) of this scheme (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 79(2) of this scheme (treatment of student loans), paragraph 80(3) of this scheme (treatment of payments from access funds) and paragraphs 20 and 21 shall 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 or the Independent Living Fund (2006).

(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 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.

(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 (1) 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 shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

- 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 for 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 shall be aggregated and treated as if they were a single payment.
- (3) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in subparagraph (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(**152**);
- (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(**153**) 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) (unemployability 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—

(152) 1991 c.48.

(153) 1944 c.10.

(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 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th 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 sub-paragraph (1) of paragraph 18 of Schedule 7, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) 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) shall apply 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(**154**). (**154**) S.I. 2001/1167.

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.

SCHEDULE 9 Paragraph 62
Capital disregards: pensioners

PART 1

Capital to be disregarded

1. 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.

2. 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 he 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.

3. 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.

4. Any premises occupied in whole or in part—

(a) by a person who is a relative of the applicant or his partner 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 shall 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.

5. 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.

6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a 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.

7. Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in 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.

8. All personal possessions.

9. 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 those assets.

10. The assets of any business owned in whole or in part by the applicant if—

- (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 reengaged, 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, 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.

11. The surrender value of any policy of life insurance.

12. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—

- (a) the applicant makes one or more payments to another person (“the provider”);
- (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.

13. Where an ex-gratia payment 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, an amount equal to that payment.

14.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is—

- (a) a diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
- (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.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply 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 shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date.

(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 an applicant's partner who is—

- (a) the diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
- (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.

(4) Where a payment such as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which the payment is made and ending two years after that date.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include 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 or an independent hospital.

(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 Creutzfeldt-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 Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

15. 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 civil partner or the applicant's partner's deceased spouse or 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.

16.—(1) Any payment made under or by—

(a) 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, or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or

(b) the Independent Living Fund (2006).

(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 and which is made to or for the benefit of that person's partner or former partner—

(a) from whom he is not, or where that person has died was not, estranged or divorced, or

(b) 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.

(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 which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.

(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 haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, 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 who is or had been a member of that person's household; 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 or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent, 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 haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, 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 who was or had been a member of his household; 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 or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent, 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 any payment of income or capital made under or deriving from any of the Trusts.
- 17.**—(1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.
- (2) Where the whole or part of the payment is administered—
- (a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;
 - (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
 - (c) in accordance with the terms of a trust established for the benefit of the applicant or his partner, the whole of the amount so administered.
- 18.** Any amount specified in paragraph 19, 20, 21 or 25 of this Schedule for a period of one year beginning with the date of receipt.
- 19.** Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.
- 20.** So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of—
- (a) purchasing premises which the applicant intends to occupy as his home; or
 - (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.
- 21.**—(1) Subject to paragraph 22 any amount paid—
- (a) by way of arrears of benefit;
 - (b) by way of compensation for the late payment of benefit;
 - (c) in lieu of the payment of benefit;
 - (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
 - (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000(**155**) under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001.
- (2) In sub-paragraph (1), “benefit” means—
- (a) attendance allowance under section 64 of the Act;
 - (b) disability living allowance;
 - (c) personal independence payment;
 - (d) income support;
 - (e) income-based jobseeker's allowance;
 - (f) state pension credit;
 - (g) housing benefit;
 - (h) council tax benefit;
 - (i) child tax credit;
 - (j) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
 - (k) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
 - (l) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
 - (m) working tax credit; or
 - (n) income-related employment and support allowance. (**155**)

22.—(1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and which has been received by the applicant in full on or after the day on which he became entitled to benefit under the Council Tax Benefit Regulations 2006 or the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—
(a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
(b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996;
(c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006;
(d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
(e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations 2008, where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) shall have effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

(a) the award of benefit under the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—

(i) is the person who received the relevant sum;

(ii) is the partner of that person; or

(iii) was the partner of that person at the date of his death;

“official error”—

(a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;

“the relevant date” means—

(a) in the case of an existing award of benefit under these Regulations or the Council Tax Benefit Regulations 2006, 6th October 2003; and

(b) in any other case, the date on which the claim for benefit under these Regulations or the Council Tax Benefit Regulations 2006 was made;

“the relevant sum” means the total amount referred to in sub-paragraph (1).

23. Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.

24. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

25. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.

26. The dwelling occupied as the home; but only one dwelling shall be disregarded under this paragraph.

27.—(1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax reduction: pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class B and class C.

28. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—

- (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
 - (b) the amount of that lump sum, but only for so long as that person does not change that election in favour of an increase of pension or benefit.
- 29.** Any payments made by virtue of regulations made under—
- (a) section 57 of the Health and Social Care Act 2001 (direct payments);
 - (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services); or
 - (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care).

PART 2

Capital disregarded only for the purposes of determining deemed income

- 30.** The value of the right to receive any income under a life interest or from a life rent.
- 31.** 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.
- 32.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 33.** Where property is held under a trust, other than—
 - (a) a charitable trust within the meaning of the Charities Act 1993(**156**); or
 - (b) a trust set up with any payment to which paragraph 16 of this Schedule applies, and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property. (**156**)

SCHEDULE 10 Paragraph 62

Capital disregards: persons who are not pensioners

- 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, notwithstanding paragraph 32 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling shall 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 shall 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 and 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 jobseeker's 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 reengaged

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 specified in paragraphs 11, 13 or 14 of Schedule 8;

(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, 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 Decisions and Appeals Regulations; and

(b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) shall have 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.

(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 instalment); 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.

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(**157**) 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. The value of the right to receive any income which is disregarded under paragraph 15 of Schedule 7 or paragraph 29 of Schedule 8.

21. The surrender value of any policy of life insurance. (**157**)

22. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

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 social fund payment made pursuant to Part 8 of the SSCBA.

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 54 or 79 (capital treated as income: persons who are not pensioners, treatment of student loans) 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 or the London Bombings Relief Charitable Fund.

(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 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) 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 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 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 haemophilia or who was 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 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 any payment of income or capital made under or deriving from any of the Trusts.

(8) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

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 he 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 or the Independent Living Fund (2006).

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(**158**) or section 66 of the Housing (Scotland) Act 1988(**159**) (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 under paragraph 54 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

(158) (159)

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(**160**) 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 1958(**161**) to homeworkers assisted under the Blind Homeworkers' Scheme.

49.—(1) Subject to sub-paragraph (2), where an applicant falls within class F (alternative maximum council reduction: persons who are not pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class E and class F.

50.—(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. (**160**) (**161**)

51. 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.

52. Any payment to the applicant as holder of the Victoria Cross or George Cross.

53. In the case of a person who is receiving, or who has received, assistance under the selfemployment

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.

54.—(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.

55.—(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 National Assembly for Wales 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).

56. 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.

57. 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.

58. 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 interment 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, £10,000.

59.—(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 shall apply 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 shall apply 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 shall apply 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 shall apply 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 shall apply 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 shall apply 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 shall include 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.

60. 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.

61.—(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.

62. 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).

63. Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

64. Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).