



# **The Bracknell Forest Council Council Tax Discount Scheme (Persons who are not Pensioners) 2017**

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# **The Bracknell Forest Council**

## **Council Tax Discount Scheme (Persons who are not Pensioners) 2017**

Approved and Made by Council

[Date]

Coming into effect on –

1<sup>st</sup> February 2017 in relation to the financial year beginning on 01 April 2017

Bracknell Forest Council makes the following Discount Scheme in exercise of the functions conferred by sections 13A(1)(a), 13A(2), 13A(3) and Schedule 1A to the Local Government Finance Act 1992 and all other enabling powers, (b) pursuant to Regulations made under section 113(1) and (2) to the 1992 Act and paragraph 2 of Schedule 1A to the Local Government Finance Act 2012 and (c) in accordance with Parts 1 to 3 and Schedules 7 to 8 of The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 as amended by –

SI 2013/3181, SI 2014/107, SI 2014/3255, SI 2014/3312, SI 2015/643, SI 2015/971, SI 2015/1985, SI 2015/2041, SI 2016/211

### **Prescribed Statutory Requirements**

The authority sets out in Chapter 1, Parts 1 - 9, the statutory provisions that must apply to all applicants for a reduction in accordance with the Prescribed Requirements Parts 1 to 3 and Schedules 7 to 8.

### **Local Scheme Requirements**

Subject to local amendments; Chapter 2 - Parts 10 to 24 and Schedules 1 to 4 set out the provisions of the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012, as amended, which the authority has adopted as its discount scheme.

[Name]

Proper Officer / Leader of the Council

Date

Bracknell Forest Council

**The Bracknell Forest Council  
Council Tax Discount Scheme  
(Persons who are not Pensioners) 2017**

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## **1.0 Introduction<sup>1</sup>**

From 1 April 2013, council tax support in the form of council tax benefit was abolished by Central Government. It became the duty of each local authority in England to have localised council tax support, in the form of a council tax reduction, in place by 31 January in each year.

The enabling provisions are contained in section 10 of the Local Government Finance Act 2012, which substitutes section 13A of the 1992 Act, and Schedule 4, which inserts Schedule 1A into the 1992 Act.

This allows the authority to use its discretion to design schemes for support for those not of pension age but contains requirements that certain elements must be included in all schemes. The detail of the elements which must be included in local council tax reductions schemes are included in The Council Tax Reduction Schemes (Prescribed Requirements Scheme) (England) Regulations 2012 SI 2885, hereinafter called the Prescribed Requirements

### **1.1 Pensioners**

The Government protects pensioners by prescribing a local scheme for pensioners with national rules.

This means that the authority has no discretion over the method or level of support provided to pensioners and that pensioners are protected from any further reductions in the level of support in accordance with the Prescribed Requirements, Parts 1 to 3, Schedules 1 to 6 and Schedules 7 to 8 where they apply to Pensioners.

This document therefore concentrates on the local council tax discount scheme for persons who are not pensioners; the discount scheme for pensioners is to be found in The Bracknell Forest Council, Council Tax Discount Scheme (Pensioners) 2017.

### **1.2 Persons who are not pensioners**

The authority is required by Government to design a local council tax support scheme for people of working age, albeit with certain limitations prescribed by Government through regulations, by 31 January in each year.

### **1.3 Work Incentives**

The authority's scheme is required to meet the basic requirements of encouraging and incentivising work. The Government does not prescribe by regulation how the authority provides for work incentives in its scheme; it is for the authority to decide how best to provide work incentives for its individual communities.

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<sup>1</sup> Section 13A LGFA 1992 as substituted by section 10 LGFA 2012

Bracknell Forest Council has provided for and continues to provide for an extended reduction, which maintains the same level of council tax support for up to four additional weeks. This is applied when a person on certain qualifying income-related and contributory benefits goes into work.

Additionally, from April 2016, the authority increased the amount a person can earn through employment or self-employment by £5 per week for most people. This is the amount a person can earn before it is taken into account for the purposes of the council tax support calculation. This is known as an 'earned income disregard'

## 1.4 Classes of persons

The Government does not prescribe by regulation which class of person(s) is deemed as being in need of financial assistance; it is for the authority to decide, having regard to its duties under the Acts referred to below.

In making its discount scheme, Bracknell Forest has paid due regard to the -

- Equality Act 2010, public sector equality duties with regard to –
  - age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation, and
- Child Poverty Act 2010, the duty to mitigate the effects of child poverty, and
- Disabled Persons (Services, Consultation and Representation) Act 1986, and
- Chronically Sick and Disabled Persons Act 1970, the duties relating to the welfare needs of disabled people, and
- Housing Act 1996, the duty to prevent homelessness, and
- Armed Forces Covenant, to recognise what our Armed Forces do for us, especially the injured and the bereaved

The Default Scheme, which Bracknell Forest has adopted as its discount scheme with local variations has been written with due regard to the above acts.

Therefore, subject to local variations, the council has decided to accept the safeguards that come with the Default Scheme for people with additional needs and in addition to bring forward the 100% local disregard for all types of war pensions from the council tax benefit scheme.

Bracknell Forest have decided to simplify its discount scheme for 2017 by removing the applicable amount and introducing income bands for the maximum amount of discount a person may be entitled; the less income a person receives the more discount is awarded.

Those who receive a disability benefit are further protected by being awarded a higher discount, as are those who receive carer's allowance, which is fully disregarded as income when calculating which income band is applicable to the applicant.



## Chapter 1 - Prescribed Statutory Requirements

### Part 1 - Introduction

#### 1. Citation, amendment and application

(1) This discount scheme may be cited as the Bracknell Forest Council, Council Tax Discount Scheme (Persons who are not Pensioners) 2017 and comes into effect on 1<sup>st</sup> February 2017 in relation to the financial year beginning on 1st April 2017.

(2) The Bracknell Forest Council, Council Tax Benefit (Reduction) Scheme (Persons who are not Pensioners) 2016 is hereby revoked.

(3) This discount scheme applies in relation to the billing authority in England known as Bracknell Forest Council and references in this discount scheme to “the authority” shall be to Bracknell Forest Council unless the context otherwise requires.

(4) If this discount scheme omits or is inconsistent with any of the requirements relating to persons who are not pensioners contained in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (including any re-enactment or amendments thereof), the scheme shall be construed in such a way as to correct the omission or inconsistency.

(5) A person entitled to a reduction under the 2016 scheme on 31<sup>st</sup> March 2017 or who has made an application for a reduction on or before 31<sup>st</sup> March 2017 and which has not yet been decided shall be treated as having made an application for a reduction under this discount scheme on 1<sup>st</sup> April 2017.

### Part 2 - Interpretation

#### 2. Interpretation<sup>2</sup>

(1) In this discount 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

“AFIP” means an armed forces independence payment payable in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004;

“applicant” means a person who has made an application;

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

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<sup>2</sup> Regulation 2, Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012

“assessment period” means -

- (a) In relation to the earnings of an employed earner, in accordance with paragraph 53 for the purpose of calculating the weekly earnings of the applicant, or
- (b) in relation to the earnings of a self-employed earner, in accordance with paragraph 54 for the purpose of calculating the weekly earnings of the applicant; or
- (c) in relation to any other income, in accordance with paragraph 55 for the purpose of calculating the weekly income of the applicant;

“attendance allowance” means -

- (a) an attendance allowance under Part 3 of the Social Security Contributions and Benefits Act 1992 (SSCBA)
- (b) an increase of disablement pension under section 104 or 105 of that Act;
- (c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment; or;
- (d) any payment based on need for attendance which is paid as part of a war disablement pension;

“the authority” means the billing authority that is Bracknell Forest Council to whose area a scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

“basic rate” has the meaning given by the Income Tax Act 2007<sup>3</sup>;

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995, the State Pension Credit Act 2002 and the Welfare Reform Act 2007 and the Pensions Act 2014<sup>4</sup>;

“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 and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 or a residential care home within the meaning of Article 10 of that Order;

“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain

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

<sup>4</sup> SI 2012/2885 2(1) amended by SI 2015/1985 wef 6 April 2016

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

“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 an allowance under Part 1 of the Welfare Reform Act 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;<sup>5</sup>

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

“couple” has the meaning given by paragraph 4;

“Default Scheme Regulations” means the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012<sup>6</sup>;

“designated office” means the office of the authority designated by it for the receipt of applications -

- (a) by notice upon or with a form supplied by it for the purpose of making an application;
- (b) by reference upon or with such a form to some other document from it and sent by electronic means or otherwise on application and without charge; or
- (c) by any combination of the provisions set out in paragraphs (a) and (b);

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

“discount scheme” means the Bracknell Forest Council, Council Tax Discount Scheme (Persons who are not Pensioners) 2017;

“discretionary reduction” means a discretion reduction to council tax liability made under section 13A(1)(c) of the 1992 Act;

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<sup>5</sup> SI 2012/2885 2(1) substituted by SI 2014/3312 in relation to Financial years beginning on or after 01 April 2015

<sup>6</sup> SI 2012/2886

“earnings” has the meaning given by paragraph 57;

“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;

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 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;

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or the National Assembly for Wales<sup>7</sup>;

“extended reduction (qualifying contributory benefits)” means a reduction under this discount scheme for which a person is eligible in accordance with Part 20;

“extended reduction (qualifying income-related benefit)” means a reduction under this discount scheme for which a person is eligible under Part 20;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 92, 97 and 101;

“family” has the meaning given by paragraph 6;

“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 the Secretary of State 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;

“a guaranteed income payment” means a payment made under article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order

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<sup>7</sup> SI 2013/3181

2011;

“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;

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the meanings given by the Jobseekers Act 1995 by virtue of section 1(4) of that Act;

“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 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; and
- (c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978;

“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;

“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;

“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;

“maximum council tax reduction” means the amount determined in accordance with paragraph 47;

“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 supplement to which paragraph 13 of Schedule 3 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 one authority to a dwelling in the area of a second authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 58 (calculation of net earnings of employed earners);

“net profit” means such profit as is calculated in accordance with paragraph 67 (calculation of net profit of self-employed earners);

“new dwelling” means, for the purposes of the definition of “second authority” and paragraphs 94 and 99 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;

“occasional assistance” means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of -

- (a) meeting, or helping to meet an immediate short-term need -
  - (i) arising out of an exceptional event or exceptional circumstances, or
  - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
- (b) enabling qualifying individuals to establish or maintain a settled home, and -
  - (i) “local authority” has the meaning given by section 270(1) of the Local Government Act 1972; and
  - (ii) “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—

(aa) in prison, hospital, an establishment providing residential care or other institution, or

(bb) homeless or otherwise living an unsettled way of life;

and “local authority” means a local authority in England within the meaning of the Local Government Act 1972;

“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

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

- (a) where that person is a member of a couple, the other member of that couple;
- (b) subject to paragraph (c), where that person is polygamously married to two or more members of his household, any such member to whom he is married; or
- (c) where that person is polygamously married and has an award of universal credit with the other party to the earliest marriage that still subsists, that other party to the earliest marriage;

“paternity leave” means a period of absence from work on paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996;<sup>8</sup>

“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;

“pensioner” has the meaning given by paragraph 3(a);

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

“person treated as not being in Great Britain” has the meaning given by paragraph 12;

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

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

“personal pension scheme” means -

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

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<sup>8</sup> SI 2012/2885 2(1) amended by SI 2014/3255 wef 05 April 2015



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

“prescribed regulations” means The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, as amended

“prescribed requirements” means The Council Tax Reduction Schemes (Prescribed Requirements Scheme) (England) Regulations 2012 SI 2885, as amended

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

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“qualifying contributory benefit” means -

- (a) severe disablement allowance;
- (b) incapacity benefit;
- (c) contributory employment and support allowance;

“qualifying income-related benefit” means -

- (a) income support;
- (b) income-based jobseeker’s allowance;
- (c) income-related employment and support allowance;

“qualifying 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” means a discounted reduction to council tax liability awarded under this discount scheme or any such scheme that precedes it and does not include a reduction to council tax liability for reasons of disability under section 13 of the 1992 Act or a



discretionary reduction made under section 13A(1)(c) of the 1992 Act;

“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;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 48 (non-dependant deductions);

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

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

[“service user group”] – omitted<sup>9</sup>

“shared parental leave” means leave under section 75E or 75G of the Employment Rights Act 1996;<sup>10</sup>

“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

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<sup>9</sup> Omitted from SI 2012/2885 2(1) by SI 2014/3312 in relation to financial years beginning on or after 01 April 15

<sup>10</sup> Inserted to SI 2012/2885 2(1) by SI 2014/3255

23(2) of the National Lottery etc Act 1993 out of sums allocated to it for distribution under that section;

“the SSCBA” means the Social Security Contributions and Benefits Act 1992;

“state pension credit” means state pension credit under the State Pension Credit Act 2002;

“student” has the meaning given by paragraph 77;

“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 or the Welsh Ministers;<sup>11</sup>
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973, or is training as a teacher;

“the Trusts” (except where the context otherwise requires) means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No 2) Trust and “Trustees” is to be construed accordingly;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

“week” means a period of seven days beginning with a Monday;

“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;

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

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<sup>11</sup> SI 2012/2885 2(1) amended by SI 2015/971 wef 26 May 2015

“war widow’s pension” means any pension or allowance payable to a woman as a widow 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

“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,
- (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,

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;

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

(2) In this discount 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 discount 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 because of a reduction paid in accordance with regulation 27A of the Jobseeker’s Allowance Regulations 1996 or section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995 (circumstances in which a jobseeker’s allowance is not payable);
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or
- (c) in respect of which an income-based jobseeker’s allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).

(4) For the purposes of this discount 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 (disqualification); or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act (employment and support allowance; supplementary provisions) and which falls immediately before a day in 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 discount scheme, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(6) In this discount 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 (small amounts of state pension credit).

(7) – not included<sup>12</sup>

(8)<sup>13</sup> References in this discount scheme to an applicant participating as a service user are to -

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

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

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,

in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services;

(aa)<sup>14</sup> a person who is being consulted by or on behalf of -

(i) the Secretary of State in relation to any of the Secretary of State's functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions,

in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person; or

(b) the carer of a person consulted as described in sub-paragraph (a) or (aa) where the

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<sup>12</sup> Relates to Pensioners only

<sup>13</sup> SI 2012/2885 2(8) inserted by SI 2014/3312 in relation to financial years beginning on or after 01 Apr 15

<sup>14</sup> SI 2012/2885 2(8)(aa) inserted by SI 2015/2041

carer is not being consulted as described in that sub-paragraph or

- (b) the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph

### **3. Application of discount scheme: pensioners and persons who are not pensioners<sup>15</sup>**

In this discount scheme a person is -

- (a) a “pensioner” if -
  - (i) he has attained the qualifying age for state pension credit; and
  - (ii) he is not, and, 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 who is not a pensioner” if -
  - (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 income-based jobseeker’s allowance or an income-related employment and support allowance; or
    - (bb) a person with an award of universal credit.

### **4. Meaning of “couple”<sup>16</sup>**

(1) In this discount scheme “couple” means<sup>17</sup> -

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together as a married couple

(2) Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

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<sup>15</sup> Regulation 3, 2012 SI 2885 as amended by SI 2013/3181

<sup>16</sup> Regulation 4, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>17</sup> SI /2012/2885 4(1) substituted by SI 2014/107 wef 13 Mar 2014

## **5. Polygamous marriages<sup>18</sup>**

- (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.

## **6. Meaning of “family”<sup>19</sup>**

- (1) In this discount 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 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 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
  - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies; or
  - (c) entitled to an award of universal credit<sup>20</sup>

## **7. Circumstances in which a person is to be treated as responsible or not responsible for another<sup>21</sup>**

- (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.

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<sup>18</sup> Regulation 5, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>19</sup> Regulation 6, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>20</sup> SI 2012/2885 6(3)(c) inserted by SI 2014/3312 in relation to financial years beginning on or after 01 Apr 15

<sup>21</sup> Regulation 7, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

(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 discount 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 regulation is to be treated as not so responsible.

## **8. Households<sup>22</sup>**

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

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

- (a) placed with the applicant or his partner by a local authority under section 22C [...<sup>23</sup>] of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out or placed with the applicant or his partner under a relevant enactment<sup>24</sup> [or in Wales, placed with the applicant or the applicant's partner by a local authority under section 81 of the Social Services and Well-being (Wales) Act 2014 or by a voluntary organisation under section 59(1)(a) of the Children Act 1989<sup>25</sup>]
- (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 or the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.

(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 -

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<sup>22</sup> Regulation 8, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>23</sup> SI 2012/2885 8(2)(a) words omitted by SI 2016/211 wef 6<sup>th</sup> April 2016

<sup>24</sup> SI 2012/2885 8(2)(a) amended by SI 2013/3181 in relation to financial years beginning on or after 01 Apr 14

<sup>25</sup> SI 2012/2885 8(2)(a) words inserted by SI 2016/211 wef 6<sup>th</sup> April 2016



- (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 -
- (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;
  - (b) the Air Force Act 1955;
  - (c) the Naval Discipline Act 1957;
  - (d) the Matrimonial Proceedings (Children) Act 1958;
  - (e) the Social Work (Scotland) Act 1968;
  - (f) the Family Law Reform Act 1969;
  - (g) the Children and Young Persons Act 1969;
  - (h) the Matrimonial Causes Act 1973;
  - (i) the Children Act 1975;
  - (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
  - (k) the Adoption and Children (Scotland) Act 2007;
  - (l) the Family Law Act 1986;
  - (m) the Children Act 1989;
  - (n) the Children (Scotland) Act 1995;
  - (na) the Children's Hearings (Scotland) Act 2011,<sup>26</sup> and
  - (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

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<sup>26</sup> SI 2012/2885 8(5)(na) inserted by SI 2013/3181 in relation to financial years beginning on or after 01 Apr 14



## 9. Non-dependants<sup>27</sup>

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

(2) This paragraph applies to -

- (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 regulation 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);
- (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 this discount 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 this

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<sup>27</sup> Regulation 9, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

discount scheme.

## **10. Remunerative work<sup>28</sup>**

(1) Subject to the following provisions, a person must be treated for the purposes 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 not work, those periods but disregarding any other absences;

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

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

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

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

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

(7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave, shared parental leave<sup>29</sup> 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.

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<sup>28</sup> Regulation 10, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>29</sup> SI 2012/2885 10(7) amended by SI 2014/3255 wef 31 Dec 2014

## **Part 3 - Prescribed classes of persons**

### **11. Pensioners<sup>30</sup>**

(1) Subject to sub-paragraph (2), pensioners are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and who are included in the authority's discount scheme under The Bracknell Forest Council, Council Tax Discount Scheme (Pensioners) 2017.

### **12. Persons treated as not being in Great Britain<sup>31</sup>**

(1) Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in this discount scheme.

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

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

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

(a) regulation 13 of the EEA Regulations<sup>32</sup> or Article 6 of Council Directive 2004/38/EC; or

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

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

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

(ab) Article 45 of the Treaty on the functioning of the European Union (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland),<sup>33</sup> or

(b) regulation 15A(1) of the EEA Regulations<sup>34</sup>, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning

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<sup>30</sup> Regulation 11, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>31</sup> Regulation 12, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>32</sup> S.I. 2006/1003; regulation 13 was amended by regulation 3 of, and paragraph 6 of Schedule 1 to, S.I. 2012/1547

<sup>33</sup> SI 2012/2885 12(4)(aa) & (ab) inserted by SI 2013/3181 in relation to financial years on or after 01 April 2014

<sup>34</sup> Regulation 15A was inserted by regulation 3 and paragraph 9 of Schedule 1 to, S.I. 2012/1547; paragraph (4A) was inserted by regulation 2 of, and paragraph 3 of the Schedule to, S.I. 2012/2560

of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen)<sup>35</sup>.

- (5) A person falls within this paragraph if the person is—
- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations<sup>36</sup> as a worker or a self-employed person;
  - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
  - (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) <sup>37</sup>a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971 where that leave is -
    - (i) discretionary leave to enter or remain in the United Kingdom,
    - (ii) leave to remain under the Destitution Domestic Violence concession which came into effect on 1st April 2012, or
    - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005;
  - (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 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.
  - (h) in receipt of income support or on an income-related employment and support allowance; or
  - (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4),<sup>38</sup> or
  - (i) a person who is treated as a worker for the purpose of the definition of "qualified

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<sup>35</sup> A consolidated version of this Treaty was published in the Official Journal on 30.3.2010 C 83

<sup>36</sup> Regulation 6(2) was amended by regulation 5 of, and paragraph 3 of Schedule 2 to, S.I. 2011/544.

<sup>37</sup> SI 2012/2885 12(5)(e) substituted by SI 2013/3181 in relation to financial years on or after 01 April 2014

<sup>38</sup> Sub-para (h) and (ha) as amended and inserted by SI 2014/3312 do not apply to a person who has since on or before 31 Mar 15 received a council tax discretionary reduction under s.13A(2) of the LGFA 1992 and has been continuously entitled to JSA(IB) since that date until the first of the following events -

- a new application for a council tax discretionary reduction is made, or entitlement to JSA(IB) ends

person” in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”).

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

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

(8) In this discount scheme -

“claim for asylum” has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;

“Crown servant” means a person holding an office or employment under the Crown;

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2006; and

“Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006

### **12A. Savings Provisions<sup>39</sup>**

(1) The amendment to paragraph 12, sub-paragraphs (5)(h) and (5)(ha), do not apply to a person who, on 31st March 2015 -

(a) is liable to pay council tax at a reduced rate by virtue of a council tax reduction under any scheme established by this authority under section 13A(2) of the 1992 Act; and

(b) is entitled to an income-based jobseeker’s allowance, until the first of the events in sub-paragraph (2) occurs.

(2) The events are -

(a) the person makes a new application for a reduction under a scheme established by this authority under section 13A(2) of the 1992 Act; or

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

(3) Subject to sub-paragraph (2), paragraph 12(5)(h) of the 2014 scheme applies to a person who falls within sub-paragraph (1) above.

### **13. Persons subject to immigration control<sup>40</sup>**

(1) Subject to sub-paragraph (1A), persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act

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<sup>39</sup> SI 2014/3312 – Reg 3 Savings Provisions

<sup>40</sup> Regulation 13, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

and which must not be included in the authority's scheme.

(1A) <sup>41</sup>A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18th October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph (1).

(2) "Person subject to immigration control" has the same meaning as in section 15(9) of the Immigration and Asylum Act 1999.

## **Part 4 - Procedural Matters**

### **14. Procedure by which a person may apply for a reduction under the authority's discount scheme<sup>42</sup>**

(1) Sub-paragraphs (2) to (11) apply to an application made under the authority's discount scheme.

(2) An application may be made -

- (a) in writing,
- (b) by means of an electronic communication in accordance with Part 5 , or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

(3) An application which is made in writing must be made to the designated office of the authority on a properly completed form.

(4) The form must be provided free of charge by the authority for the purpose.

(5) 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 (5)(a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (5)(b) applies, supply the applicant with the approved form or request further information and evidence.

(6) An application made on a form provided by the authority is properly completed

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<sup>41</sup> SI 2012/2885 13(1A) inserted by SI 2013/3181 in relation to financial years on or after 01 April 2014

<sup>42</sup> Schedule 7 part 1 Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

if it is completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

(7) 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.

(8) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

(9) 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.

(10) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.

(11) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

#### **15. Procedure by which a person may appeal against certain decisions of the authority<sup>43</sup>**

(1) A person who is aggrieved by a decision of the authority which affects -

- (a) the person's entitlement to a reduction under its discount scheme, or
- (b) the amount of any reduction to which that person is entitled,

may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

(2) 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.

(3) Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

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<sup>43</sup> Schedule 7 part 2, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885



## **16. Procedure for applying for a discretionary reduction<sup>44</sup>**

(1) 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 5: or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

(2) Where—

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

## **Part 5 - Electronic Communication**

### **17. Interpretation<sup>45</sup>**

In this part -

"information" includes an application, a certificate, notice or other evidence; and

"official computer system" means a computer system maintained by or on behalf of the authority for sending, receiving, processing or storing of any information.

### **18. Conditions for the use of electronic communication**

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

(2) A person other than that 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;

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<sup>44</sup> Schedule 7 part 3, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>45</sup> Paras 17 - 23, Schedule 7 part 4, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885



- (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.

(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.

#### **19. Use of intermediaries**

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.

#### **20. Effect of delivering information by means of electronic communication**

(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 the authority’s discount scheme on the day the conditions imposed -

- (a) by this part; and
- (b) by or under an enactment,

are satisfied.

(2) The authority may, determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

(3) Information may 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.

#### **21. Proof of identity of sender or recipient of information**

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.

## **22. Proof of delivery of information**

(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 is 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 is 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 is presumed to be that recorded on an official computer system.

## **23. Proof of content of information**

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 is presumed to be that recorded on an official computer system.

## **Part 6 - Extended Reductions: Movers<sup>46</sup>**

### **24. Extended reductions: movers into the authority's area**

Where—

- (a) an application is made to the authority (“the current authority”) for a reduction under its discount 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; or
  - (ii) a billing authority in Wales,

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<sup>46</sup> Schedule 8 part 1 Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

the current authority must reduce any reduction to which the applicant is entitled under its discount scheme by the amount of that extended reduction

## **Part 7 - Applications**

### **25. Making an application<sup>47</sup>**

(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 apply, 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 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 the authority's discount 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 (5) -

- (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 terminates when the authority is notified of the

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<sup>47</sup> Sch 8(5) Council Tax Reduction Schemes (Prescribed Requirements Scheme) Regulations 2012 SI 2885

appointment of a person mentioned in sub-paragraph (2).

(6) Anything required by the authority's discount 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 29(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.

## **26. Date on which an application is made<sup>48</sup>**

(1) Subject to sub-paragraph (7), the date on which an application is made is -

(a) 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 is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,

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

(b) in a case where -

- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application for a reduction is received at the designated office within one month of the date of the change,

the date on which the change takes place;

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<sup>48</sup> Sch 8(5) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

(c) in a case where -

(i) an 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 authority's discount scheme, and

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

the date of the death or separation;

(d) 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;

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

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

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

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

(3) Where the defect referred to in paragraph 14(10) (applications 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 must 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 must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.

(4) The authority must 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 14(5)(a) (incomplete form) applies, the authority receives at its designated office 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 14(5)(b) (application not on approved form or further information requested by authority) applies -
- (i) the approved form sent to the applicant is received at the designated office 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 14(5) 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 designated office 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 the authority's discount scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must 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 the authority's discount 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 its discount scheme for a period beginning not later than—

- (a) in the case of an application made by 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,

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) In this paragraph "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 of income support, a job seekers allowance or an employment and support allowance.

## 27. Information and evidence<sup>49</sup>

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

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

(a) the application is accompanied by -

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

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

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

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

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

(3) Sub-paragraph (2) does not apply -

(a) in the case of a child or young person in respect of whom an application for a reduction is made;

(b) to a person who -

(i) is a person treated as not being in Great Britain for the purposes;

(ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and

(iii) has not previously been allocated a national insurance number.

(4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority's discount 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 its discount 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 which sub-paragraph (7) applies;

(6) Where the authority makes a request under sub-paragraph (4), it must -

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<sup>49</sup> Sch 8(7) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885



- (a) inform the applicant or the person to whom a reduction under its discount scheme has been awarded of his duty under paragraph 29 (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 29, 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 must 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 3 (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 48(9).
- (8) Where an applicant or a person to whom a reduction under the authority's discount 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<sup>50</sup> -
- (a) the name and address of the pension fund holder;
  - (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

## **28. Amendment and withdrawal of application<sup>51</sup>**

- (1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.
- (2) Where the application was made by telephone in accordance with paragraph 14, the amendment may also be made by telephone.
- (3) Any application amended in accordance with sub-paragraph (1) or (2) will be treated as if it had been amended in the first instance.
- (4) A person who has made an application may withdraw it at any time before a decision has been made on it by notice to the offices of the authority.
- (5) Where the application was made by telephone in accordance with paragraph 14, the withdrawal may also be made by telephone.

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<sup>50</sup> 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

<sup>51</sup> Sch 8(8) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885



(6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

(7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

## **29. Duty to notify changes of circumstances<sup>52</sup>**

(1) Subject to sub-paragraphs (3), an 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 the authority's discount 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 the authority's discount 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 paragraph 14 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, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

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

- (a) changes in the amount of council tax payable to the authority;
- (b) changes in the age of the applicant or that of any member of his family;
- (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's discount scheme to which he is entitled, other than the cessation of that entitlement to the benefit.

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<sup>52</sup> Sch 8(9) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

(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) - (9) Omitted - relating to pensioners

## **PART 8 - Decisions by the authority**

### **30. Decision by authority<sup>53</sup>**

The authority must make a decision on an application under its discount scheme within 14 days of paragraphs 25 and 27 and Part 4 of this discount scheme being satisfied, or as soon as reasonably practicable thereafter.

### **31. Notification of decision<sup>54</sup>**

(1) The authority must notify in writing any person affected by a decision made by it under its discount 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 29;

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

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

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

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

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<sup>53</sup> Sch 8(11) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

<sup>54</sup> Sch 8(12) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

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

(6) The written statement referred to in sub-paragraph (2) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.

(7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under its discount scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (6).

(8) This 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 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 26(3);

## **PART 9 - Award or payment of reduction**

### **32. Payment where there is joint and several liability<sup>55</sup>**

(1) Where—

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

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

(c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and

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<sup>55</sup> Sch 8(14) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 SI 2885

Enforcement) Regulations 1992 refers would be inappropriate,

it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.

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

(3) Where a person other than a person who is entitled to a reduction under the authority's discount scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 26(3) or is treated as having been so appointed by virtue of paragraph 26(4), the amount of the reduction may be paid to that person

**33. - 35. Not used.**

## Chapter 2 - Local Discount scheme Requirements

### Part 10 - Classes of person entitled to a reduction under this discount scheme

#### 36. Classes of person entitled to a reduction under this discount scheme<sup>56</sup>

(1) The classes of person described in paragraphs 37 to 39 are in relation to a person who is not pensioner and are entitled to a reduction under this discount 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.

#### 37. Class D: persons who are not pensioners who are entitled to a premium under Part 11<sup>57</sup>

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 40 (periods of absence from a dwelling), 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 discount scheme;
- (e) who is entitled to a premium under part 11 of this discount scheme determined by Schedule 1;
- (f) who has made an application, or is treated as having made an application, for a reduction under this discount scheme; and
- (g) who does not possess capital of more than £16,000

#### 38. Class E: persons who are not pensioners who receive an income-related Social Security benefit<sup>58</sup>

(1) 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 40 (periods of absence from a dwelling), is not absent

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<sup>56</sup> Reg. 12, SI 2012/2886 substituted with BFC local scheme requirement in relation to financial years beginning on or after 01 April 2017

<sup>57</sup> Reg. 16, SI 2012/2886 substituted with BFC local scheme requirement in relation to financial years beginning on or after 01 April 2017

<sup>58</sup> Reg. 17, SI 2012/2886 substituted with BFC local scheme requirement in relation to financial years beginning on or after 01 April 2017

- 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 discount scheme;
  - (e) who does not fall to be a class of person within paragraph 37;
  - (f) who does not, or who (jointly with his partner) does not have an award of universal credit;
  - (f) who, for the relevant week receives income support, income-based jobseekers allowance or income-related employment and support allowance; and
  - (g) for whom paragraph 8A of Schedule 3 (Sums disregarded in the calculation of income other than earnings) does not apply;
  - (h) who has made an application, or is treated as having made an application, for a reduction under this discount scheme; and
  - (i) who does not possess capital of more than £16,000

**39. Class F: persons who are not pensioners who are not entitled to a premium under Part 11 and who are not treated as receiving an income-related Social Security benefit**

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 40 (periods of absence from a dwelling), 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 discount scheme;
- (e) who does not fall to be a class of person within paragraphs 37 or 38
- (f) whose average weekly assessed income in accordance with parts 15, 16, 17 and 19 of this discount scheme is –
  - (i) £80 or less;
  - (ii) not less than £80.01 but less than £140.01;
  - (iii) not less than £140.01 but less than 200.01;
  - (iv) not less than £200.01 but less than £260.01;
  - (v) not less than £260.01 but less than £320.01;

(vi) not less than £320.01 but less than £380.01;

(vii) not less than £380.01 but less than £440.01

(viii) £440.01 or more

(g) who has made an application, or is treated as having made an application, for a reduction under this discount scheme, and

(h) who does not possess capital of more than £16,000

#### **40. Periods of absence from a dwelling<sup>59</sup>**

(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

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<sup>59</sup> Reg. 19, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886



(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 sub-paragraph (2)(a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

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

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

(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.

#### **41. Classes of person excluded from this discount scheme<sup>60</sup>**

The classes of person described in paragraph 12, 13, 39(f)(viii), 42 and 43 are not entitled to a reduction under this discount scheme.

#### **42. Class of person excluded from this discount scheme: capital limit<sup>61</sup>**

(1) Subject to sub-paragraph (2), the class of person described in this paragraph consists of any person whose capital exceeds £16,000;

(2) Subject to paragraph 52, capital for the purposes of sub-paragraph (1) is to be calculated in accordance with Part 17.

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<sup>60</sup> Reg. 20, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886, amended by BFC

<sup>61</sup> Reg. 23, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

#### **43. Class of person excluded from this discount scheme: students<sup>62</sup>**

The class of person described in this paragraph consists of any student to whom paragraph 79(1) applies.

### **Part 11 - Premiums**

#### **44. Entitlement to a Premium<sup>63</sup>**

Subject to paragraphs 45 and 46, for the purpose of paragraph 47 (Maximum council tax reduction under this discount scheme), an applicant is a person entitled to a premium in respect of himself or, if he is a member of a couple, in respect of the member of the couple, determined in accordance with Schedule 1.

#### **45. Polygamous marriages<sup>64</sup>**

(1) For the purpose of paragraph 47 (Maximum council tax reduction under this discount scheme), an applicant is a person entitled to a premium in respect of himself or, if he is a member of a polygamous marriage, in respect of any member of that polygamous marriage, determined in accordance with Schedule 1.

(2) In determining the entitlement to a premium of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if—

- (a) one of them is a party to an earlier marriage that still subsists; and
- (b) the other party to that earlier marriage is living in the same household.

#### **46. Premiums: persons who have an award of universal credit<sup>65</sup>**

(1) Subject to sub-paragraph (2) of paragraph 45, entitlement to a premium for an applicant who has, or who (jointly with his partner) has, an award of universal credit, is determined in accordance with Schedule 1.

### **Part 12 - Maximum council tax reduction**

#### **47. Maximum council tax reduction under this discount scheme<sup>66</sup>**

(1) Subject to sub-paragraphs (3) to (5), where an applicant falls within –

(a) paragraph 37 (class D), the amount of a person's maximum council tax reduction in respect of a day is 80 per cent of the amount A/B;

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<sup>62</sup> Reg. 24, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>63</sup> Reg. 26, SI 2012 SI 2886, substituted by BFC local scheme requirements in relation to financial years beginning on or after 01 April 2017

<sup>64</sup> Reg. 27, SI 2012 SI 2886, substituted by BFC local scheme requirements in relation to financial years beginning on or after 01 April 2017

<sup>65</sup> Reg. 28, SI 2012 SI 2886, substituted by BFC local scheme requirements in relation to financial years beginning on or after 01 April 2017

<sup>66</sup> Reg. 29, SI 2012 SI 2886, substituted by BFC local scheme requirements in relation to financial years beginning on or after 01 April 2017

(b) paragraph 38 (class E), the amount of a person's maximum council tax reduction in respect of a day is 75 per cent of the amount A/B;

(c) paragraph 39 (class F), the amount of a person's maximum council tax reduction in respect of a day is –

- (i) in respect of paragraph 39(f)(i), 75 per cent of the amount A/B;
- (ii) in respect of paragraph 39(f)(ii), 70 per cent of the amount A/B;
- (iii) in respect of paragraph 39(f)(iii), 60 per cent of the amount A/B;
- (iv) in respect of paragraph 39(f)(iv), 50 per cent of the amount A/B;
- (v) in respect of paragraph 39(f)(v), 40 per cent of the amount A/B;
- (vi) in respect of paragraph 39(f)(vi), 30 per cent of the amount A/B;
- (vii) in respect of paragraph 39(f)(vii), 20 per cent of the amount A/B;

(2) 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,

(3) In calculating a person's maximum council tax reduction under this discount 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 discount scheme), is to be taken into account.

(4) Subject to sub-paragraph (5), 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.

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

(6) The reference in sub-paragraph (4) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 79(2) applies.

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

#### 48. Non-dependant housing costs contribution<sup>67</sup>

(1) Subject to the following provisions of this paragraph, the non-dependant housing costs contribution in respect of a day referred to in paragraph 47 is -

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £11.45 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.77 x 1/7; or
- (c) in respect of a non-dependant aged 18 or over who is entitled to an award of universal credit where the award is calculated on the basis that the person has earned income but is not a person to whom sub-paragraph (a) applies, the amount specified in sub-paragraph (b);

(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 £195.00, the housing costs contribution to be made under this paragraph is the amount specified in sub-paragraph (1)(b);
- (b) not less than £195.00 but less than £338.00, the housing costs contribution to be made under this paragraph is £7.58;
- (c) not less than £338.00 but less than £420.00, the housing costs contribution to be made under this paragraph is £9.56.

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

(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 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

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<sup>67</sup> Reg. 30, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886 as amended by BFC in accordance with SI 2015/2041 in relation to financial years on or after 01 April 2015

of section 9 of the 1992 Act (liability of spouses and civil partners); and

- (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons,

the housing costs contribution in respect of that non-dependant must be apportioned equally between those liable persons.

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

- (a) severely sight-impaired<sup>68</sup> or treated as such by virtue of paragraph 10 of Schedule 1 (additional condition for the disability premium); or
- (b) receiving in respect of himself -
  - (i) attendance allowance, or would be receiving that allowance but for -
    - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
    - (bb) an abatement as a result of hospitalisation; or
  - (ii) the care component of the disability living allowance, or would be receiving that component but for -
    - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
    - (bb) an abatement as a result of hospitalisation; or
  - (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
  - (iv) an armed forces independence payment, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution

(7) No housing costs contribution 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

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<sup>68</sup> SI 2012/2885 Sch 1(3)(8)(6)(a) amended by SI 2015/643 in relation to financial years on or after 01 April 2015

- (c) he is a full-time student within the meaning of Part 18 (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 40(6), and
    - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods;
  - (e) he is not residing with the applicant because he is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006) who is absent, while on operations, from the dwelling usually occupied as their home.<sup>69</sup>
- (8) No housing costs contribution 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; or
  - (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income
- (9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependants gross weekly income -
- (a) any attendance allowance, disability living allowance, personal independence payment or an armed forces 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 60 (calculation of income other than earnings), would have been disregarded under paragraph 28 of Schedule 3 (income in kind); and
  - (c) any payment which, had his income fallen to be calculated under paragraph 60 (Calculation of income other than earnings), would have been disregarded under paragraph 41 of Schedule 3 (payments made under certain trusts and certain other payments).
- (10) The right to prescribe the amounts of non-dependant housing costs contribution conferred by sub-paragraphs (1) and (2) includes the right by the authority to set the amounts annually in accordance with the annual uprating of non-dependant deductions under Schedule 1, part 3 of the prescribed requirements relating to Pensioners, to take effect at the beginning of each financial year.

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<sup>69</sup> SI 2012/2885 Sch 1(3)(8)(7)(e) inserted by SI 2013/3181 in relation to financial years on or after 01 April 2014



(11) <sup>70</sup>An applicant or his partner is severely sight-impaired or blind or treated as such for the purposes of sub-paragraph (6)(a) if the applicant or his partner -

(a) is blind and in consequence registered in a register compiled by a local authority in Wales under section 29 of the National Assistance Act 1948 (welfare services); or

(b) is registered as severely sight-impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight-impaired adults); or

(c) 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.

(11A) <sup>71</sup>For the purposes of sub-paragraph (8), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013.

(12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as severely sight-impaired or blind on regaining his eyesight is nevertheless to be treated as blind for a period of 28 weeks following the date on which he ceased to be so registered<sup>72</sup>.

## **PART 13 - Not used**

## **PART 14 - Amount of reduction**

### **49. Amount of reduction under this discount scheme: Classes D to F<sup>73</sup>**

(1) Where a person is entitled to a reduction under this discount scheme in respect of a day, subject to paragraph 48 (Non-dependant housing costs contribution), the amount of the reduction to which he is entitled is in accordance with sub-paragraphs (2) to (4) of this paragraph.

(2) Where the person falls within paragraph 37 (class D), that amount is the amount which is the maximum council tax reduction under paragraph 47(1)(a) in respect of the day in the applicant’s case.

(3) Where the person falls within paragraph 38 (class E), that amount is the amount which is the maximum council tax reduction under paragraph 47(1)(b) in respect of the day in the applicant’s case.

(4) Where the person falls within paragraph 39 (class F), that amount is the amount which is the maximum council tax reduction under paragraph 47(1)(c)(i) to (vii), as applicable in respect of the day in the applicant’s case.

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<sup>70</sup> SI 2012/2885 Ach 1(3)(8)(11) substituted by SI 2015/643 in relation to financial years on or after 01 April 2015

<sup>71</sup> SI 2012/2885 Sch 1(3)(8)(11A) inserted by SI 2014/3312 in relation to financial years on or after 01 April 2015

<sup>72</sup> SI 2012/2885 Sch 1(3)(8)(12) amended by SI 2015/643 in relation to financial years on or after 01 April 2015

<sup>73</sup> Reg. 32, SI 2012/2886 substituted by BFC local scheme requirements in relation to financial years beginning on or after 01 April 2017

#### **49A. Minimum council tax reduction**

Where a council tax deduction is to be applied; it shall not be applied where the amount to which an applicant would otherwise be entitled is less than 50 pence per reduction week.

### **PART 15 - Income and capital - General**

#### **50. Calculation of income and capital: applicant's family and polygamous marriages<sup>74</sup>**

(1) Subject to Schedules 2 and 3, for the purposes of paragraph 39 (class F), 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, Parts 16, 17 and 19

(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) Except where paragraph 52 (income and capital where there is an award of universal credit) applies, 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.

#### **51. Circumstances in which income and capital of non-dependant is to be treated as the applicant's<sup>75</sup>**

(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 and the non-dependant has more income and capital than the applicant.

(2) Except where the applicant is on income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit,

the authority must 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.

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<sup>74</sup> Reg. 33, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>75</sup> Reg. 34, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

(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 must 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.

## **52. Income and capital where there is an award of universal credit<sup>76</sup>**

(1) This paragraph does not apply to a person who falls to be a person within paragraph 37 (class D).

(2) Subject to paragraph 67 of Schedule 3 (Sums disregarded in the calculation of income other than earnings).for the purposes of paragraph 39 (class 39), the income of an applicant -

(a) who has, or

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

an award of universal credit is to be calculated in accordance with the provisions of this Part and Part 16, 17 and 19

(3) Subject to sub-paragraph (3), the amount of universal credit award to be taken into account for the purposes of a reduction is the amount awarded in the relevant assessment period and each subsequent assessment period in accordance with Part 3 of The Universal Credit Regulations 2013.

(4) The amount of universal credit awarded includes any amounts; -

(a) by way of deduction under The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013; -

(i) Schedule 5 – Direct payment to Lender of deductions in respect of interest on secured loans;

(ii) Schedule 6 – Deductions from benefit and direct payment to third parties; and

(iii) Schedule 7 – Deductions from benefit in respect of child support maintenance and payment to persons with care;

(b) paid wholly or partly to the applicant’s partner under Part 4 or a third party under Part 5 of The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013

(5) The weekly amount of universal credit to be taken into account is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.

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<sup>76</sup> Para 52 substituted by order of BFC in relation to financial years on or after 01 April 2016

(6) In this paragraph; -

“assessment period” has the same meaning as in Part 3 of The Universal Credit Regulations 2013;

“relevant assessment period” means the assessment period during which the applicant, either himself or jointly with his partner; -

- (a) becomes entitled to a reduction under this discount scheme;
- (b) becomes entitled to an award of universal credit; or
- (c) has a change in the amount of universal credit awarded

as it applies to the first decision on an application under this discount scheme or an existing reduction under paragraph 103 - change of circumstances.

(7) The amount of employed earnings, self-employed earnings and unearned income is to be calculated in accordance with Part 16 of this discount scheme

(8) Subject to paragraph 8A of Schedule 4<sup>77</sup>, the capital of an applicant;-

- (a) who has, or
- (b) who (jointly with his partner) has,

an award of universal credit, is the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

## **Part 16 - Income**

### **53. Average weekly earnings of employed earners<sup>78</sup>**

(1) Where the income of an applicant 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 sub-paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the application is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

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<sup>77</sup> Para 52(7) amended by order of BFC in relation to financial years on or after 01 April 2016

<sup>78</sup> Reg. 47, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

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

- (a) if he has received any earnings or expects to receive an amount of 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 shall be estimated by reference to those earnings;
- (b) in any other case, the relevant authority shall require the claimant's employer to furnish an estimate of the claimant's likely weekly earnings over such period as the relevant authority may require and the claimant's average weekly earnings shall be estimated by reference to that estimate<sup>79</sup>.

(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 must 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 paragraph 57 (earnings of employed earners) and 58 (calculation of net earnings of employed earners).

#### **53A Date on which income consisting of earnings from employment as an employed earner are taken into account**

A claimant's average weekly earnings from employment estimated pursuant to paragraphs 53, 56, 57 and 58 of this Part shall be taken into account -

- (a) in the case of an application, on the date that the application was made or treated as made and the first day of each reduction week thereafter, regardless of whether those earnings were actually received in that reduction week;
- (b) in the case of an application or award where the applicant commences employment, the first day of the reduction week following the date the applicant commences that employment, and the first day of each reduction week thereafter, regardless of whether those earnings were actually received in that reduction week; or
- (c) in the case of an application or award where the applicant's average weekly earnings from employment change, the first day of the reduction week following the date of the change, and the beginning of each reduction week thereafter, regardless of whether those earnings were actually received in that reduction week.

#### **54. Average weekly earnings of self-employed earners<sup>80</sup>**

(1) Where the income of an applicant consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by reference to his

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<sup>79</sup> Powers in section 14A of the LGFA 1992 may be used to confer power to require employers to provide information for these purposes.

<sup>80</sup> Reg. 48, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

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 paragraph 59 (earnings of self-employed earners), 67 (calculation of net profit of self-employed earners) and 68 (calculation of deduction of tax and contributions of self-employed earners).

#### **55. Average weekly income other than earnings<sup>81</sup>**

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

(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 60 (calculation of income other than earnings).

#### **56. Calculation of weekly income of employed earners<sup>82</sup>**

(1) For the purposes of paragraph 53 (average weekly earnings of employed earners), 55 (average weekly income other than earnings) and 65 (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 53 (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.

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<sup>81</sup> Reg. 49, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>82</sup> Reg. 50, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

## 57. Earnings of employed earners<sup>83</sup>

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

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant’s employer in respect of -
  - (i) travelling expenses incurred by the applicant between his home and place of employment;
  - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant’s absence from home;
- (g) 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<sup>84</sup>, statutory shared parental 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;

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<sup>83</sup> Reg. 51, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>84</sup> Consequential amendment to SI 2014/3255



(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 as a service user.<sup>85</sup>

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

### **58. Calculation of net earnings of employed earners<sup>86</sup>**

(1) For the purposes of paragraph 53 (average weekly earnings of employed earners), 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 2 (sums disregarded in the calculation of earnings).

(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, statutory shared parental pay<sup>87</sup> or statutory adoption pay, any amount deducted from those

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<sup>85</sup> Consequential amendment to SI 2014/3312

<sup>86</sup> Reg. 52, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>87</sup> Consequential amendment to SI 2014/3255

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 paragraph “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 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.
- (6) Where the earnings of an applicant are estimated under paragraph 53(2)(b) (average weekly earnings of employed earners), 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 sections 35 to 37 of the Income Tax Act 2007 (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 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.

### **59. Earnings of self-employed earners<sup>88</sup>**

- (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person means the gross income of the employment.
- (2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 3 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.

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<sup>88</sup> Reg. 53, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

(3) 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; 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 discount 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 2 (sums disregarded in the calculation of earnings: persons) as appropriate in the applicant's case.

#### **60. Calculation of income other than earnings<sup>89</sup>**

(1) For the purposes of paragraph 55 (average weekly income other than earnings: persons), the income of an applicant 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 61 (capital treated as income).

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

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

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

(5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax

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<sup>89</sup> Reg. 54, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

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.

(6) Sub-paragraphs (7) and (8) apply where -

- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

(7) 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 (6) 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 85(5) (treatment of student loans);

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 85(2) (treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this discount 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.

(8) 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 (6) applies, is to be calculated by applying the formula in sub-paragraph (7) 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 85(5) (treatment of student loans).

(9) In this paragraph -

“academic year” and “student loan” have the same meanings as in Part 18 (students);

“assessment period” means -

- (a) in a case where a relevant payment is made quarterly, the period beginning with

the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

(b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes -

(i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or

(ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on -

(a) 1st January and ending on 31st March;

(b) 1st April and ending on 30th June;

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

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

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 80(7) (calculation of grant income) or both.

(10) 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 57(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.

## **61. Capital treated as income<sup>90</sup>**

(1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with Part 17 exceed £16,000, be treated as income.

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<sup>90</sup> Reg. 55, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886as amended

- (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.

## **62. Notional income<sup>91</sup>**

(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 this discount 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 4 (capital disregard) applies which is administered in the way referred to in paragraph 50(1)(a);
- (e) any sum to which paragraph 51(a) of Schedule 4 refers;
- (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
- (g) child tax credit;
- (h) working tax credit, or
- (i) any sum to which sub-paragraph (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 -

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<sup>91</sup> Reg. 56, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

- (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 sub-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 (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;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (g) under an occupational pension scheme, in respect of a pension or other



periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where -

- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the 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 56(3) (calculation of net earnings of employed earners) do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less -

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (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 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 as a service user.

### **63. Calculation of income on a weekly basis<sup>92</sup>**

(1) Subject to paragraph 66 (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 under paragraph 76 (calculation of tariff income); and
- (c) deducting from the sum of sub-paragraphs (a) and (b) any relevant child care charges to which paragraph 64 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where

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<sup>92</sup> Reg. 57, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph 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 sub-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 sub-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.

#### **64. Treatment of child care charges<sup>93</sup>**

(1) This paragraph applies where an applicant (within the meaning in this paragraph) 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;

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<sup>93</sup> Reg. 58, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

- (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.
- (3) This paragraph applies to a person who was engaged in remunerative work immediately before -
- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
  - (b) the first day of the period in respect of which earnings are credited, as the case may be.
- (4) In a case to which 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 -
- (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 sub-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; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
- (e) by -
  - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
  - (ii) local authorities registered under section 83(1) 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; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of "childcare" for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
- (l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010

and being a regulated activity prescribed by those Regulations; 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)<sup>94</sup> For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where -

- (a) 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;
- (b) 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;
- (c) 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 or the Employment and Support Allowance Regulations 2013;<sup>95</sup>
- (d) he 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;
- (e) he 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 or Employment and Support Allowance 2013 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (f) 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

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<sup>94</sup> Paras (a) & (b) omitted (pensioners) Paras (c) - (m) renumbered (a) - (k)

<sup>95</sup> Consequential amendment to SI 2014/3312 – sub-para (c), (e) and (g)



- 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;
  - (v) personal independence payment;
  - (vi) an AFIP:
  - (vii) increase of disablement pension under section 104 of the SSCBA;
  - (viii) 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), (vi) or (vii) above;
  - (ix) main phase employment and support allowance;
- (g) a pension or allowance to which sub-paragraph (v), (vii) or (viii) of sub-paragraph (f) 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 article 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;
- (h) 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;
- (i) 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);
- (j) an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution
- (k) sub-paragraph (f), (g), (h) or (i) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (l) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health



and Personal Social Services (Northern Ireland) Order 1972.

(12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(d) applies to the person, 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)(e) applies to the person, 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 has ceased to be payable by virtue of<sup>96</sup> 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), 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 [is registered as severely sight-impaired in a register kept by a local authority in Wales under section 18(1) of the Social Services and Well-being (Wales) Act 2014<sup>97</sup>]; or

(d) who ceased to be registered as blind or severely sight-impaired 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)<sup>98</sup> For the purposes of sub-paragraph (1) a woman on maternity leave, paternity leave, shared parental 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")

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<sup>96</sup> Consequential amendment SI 2012/2885 Sch 1(6)(25)(13)(b) amended by SI 2014/3312 in relation to financial years on or after 01 April 2015

<sup>97</sup> SI 2012/2886 words inserted by SI 2016/211 wef 06 April 2016

<sup>98</sup> SI 2012/2885 Sch 1(6)(25)(14) amended by SI 2014/3255 in relation to financial years on or after 01 April 2015

provided that -

- (a) in the week before the period of maternity leave, paternity leave, shared parental 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) he 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 virtue of section 171ZL of that Act, maternity allowance under section 35 of that Act, statutory shared parental pay by virtue of section 171ZU or 171ZV 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, shared parental leave<sup>99</sup> 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, ordinary or additional 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, ordinary or additional statutory paternity 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).

(18) In this paragraph "applicant" does not include an applicant -

- (a) who has, or
- (b) who (jointly with his partner) has,

an award of universal credit.

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<sup>99</sup> SI 2012/2885 Sch 1(6)(25)(15) amended by SI 2014/3255 in relation to financial years on or after 01 April 2015

## **65. Calculation of average weekly income from tax credits<sup>100</sup>**

- (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 is 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.

## **66. Disregard of changes in tax and contributions etc<sup>101</sup>.**

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 national insurance<sup>102</sup> 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 profits threshold<sup>103</sup> 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 [or a state pension under Part 1 of the Pensions Act 2014<sup>104</sup>];
  - (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

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<sup>100</sup> Reg. 59, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>101</sup> Reg. 60, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>102</sup> Consequential amendment to SI 2012/2885 Sch 1(6)(28)(c) amended by SI 2014/3312 in relation to financial years on or after 01 April 2015

<sup>103</sup> Consequential amendment to SI 2012/2885 28(c) amended by SI 2015/2041

<sup>104</sup> SI 2012/2886 words inserted by SI 2015/1985 wef 06 April 2016

week immediately following the date from which the change is effective.

#### **67. Calculation of net profit of self-employed earners<sup>105</sup>**

(1) Subject to paragraph 67A (minimum income floor for self-employed earners), for the purposes of paragraphs 54 (average weekly earnings of self-employed earners) and 63 (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 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 national insurance contributions payable under the SSCBA calculated in accordance with paragraph 68 (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, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 2 (sums disregarded in the calculation of earnings).

(3) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where 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) national insurance contributions payable under the SSCBA, calculated in accordance with paragraph 68 (deduction of tax and contributions for self-employed earners); and
- (c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

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

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<sup>105</sup> Reg. 61, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

(5) Subject to sub-paragraph (6), no deduction is to be made under sub-paragraphs (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-paragraphs (3)(a) or (4) in respect of the repayment of capital on any loan used for -

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

(7) The authority must refuse to make a deduction in respect of any expenses under sub-paragraphs (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-paragraphs (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) national insurance contributions payable under the SSCBA,

calculated in accordance with paragraph 68 (deduction of tax and contributions for self-employed earners); and

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

(10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.

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

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

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

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

#### **67A. Minimum Income Floor for Self-employed earners<sup>106</sup>**

(1) Subject to sub-paragraph (4), this paragraph applies to an applicant who is, or his partner is in gainful self-employment

(2) Where this paragraph applies to a single applicant, whose earnings from self-employment has been calculated in accordance with paragraphs 54, 63, and 67 and the applicant's average weekly earnings from self-employment over the assessment period is less than the specified amount, the applicant is to be treated as having earnings from self-employment equal to the specified amount.

(3) Where this paragraph applies to an applicant who is a member of a couple, and either his or his partner's earnings from self-employment has been calculated in accordance with paragraphs 54, 63, and 67, and the couple's combined average weekly earnings is less than the specified amount, the applicant is to be treated as having earnings from self-employment equal to the specified amount.

(4) This paragraph does not apply where the business in which the applicant is gainfully self-employed is within a start-up period.

(5) Interpretation; in this paragraph;-

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<sup>106</sup> Paragraph 67A Inserted by order of BFC in relation to financial years on or after 01 April 2016, the meaning of specified amount amended in relation to financial years beginning on or after 01 April 2017.

“assessment period” means the period over which average weekly earnings from self-employment is estimated in accordance with paragraph 54(1);

“gainfully self-employed” has the same meaning as regulation 64 of the Universal Credit Regulations 2013;

“specified amount” means in relation to a; -

- (a) lone parent, 16 hours per week;
- (b) single applicant with no dependants, 24 hours per week; or
- (c) couple, 24 hours per week;

at the rate equal to the National Living Wage under regulation 4 of The National Minimum Wage Regulations 2015.

“start-up period” means; -

- (a) a business that has been trading for less than 12 calendar months, and
- (b) that no start-up period has been applied to the applicant during the current award or any previous award of a reduction under this discount scheme less than five years before the beginning of the start-up period in sub-paragraph (a), and which applied in relation to a different trade, profession or vocation that the applicant has ceased to carry on

#### **68. Calculation of deduction of tax and contributions of self-employed earners<sup>107</sup>**

(1) The amount to be deducted in respect of income tax under paragraph 67(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 sections 35 to 37 of the Income Tax Act 2007 (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 national insurance contributions under paragraph 67(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of -

- (a) <sup>108</sup>the amount of Class 2 contributions payable under section 11(2) or, as the case may be, 11(8) 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 profits threshold) for the tax

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<sup>107</sup> Reg. 62, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>108</sup> Consequential amendment to SI 2012/2885 30(3)(a) amended by SI 2015/2041



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 sub-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 67;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

## **Part 17 - Capital; persons who do not have an award of universal credit**

### **69. Calculation of capital<sup>109</sup>**

(1) The capital of an applicant to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and any income treated as capital under paragraph 70 (income treated as capital).

(2) There must be disregarded from the calculation of an applicant’s capital under sub-paragraph (1), any capital, where applicable, specified in Schedule 4.

(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 discount 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.

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<sup>109</sup> Reg. 63, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

## **70. Income treated as capital<sup>110</sup>**

- (1) In this paragraph -
- (2) Any bounty derived from employment to which paragraph 7 of Schedule 2 (sums disregarded in the calculation of earnings 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 57(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 4 (capital disregards), any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- (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.
- (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.

## **71. Calculation of capital in the United Kingdom<sup>111</sup>**

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.

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<sup>110</sup> Reg. 64, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>111</sup> Reg. 65, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

## **72. Calculation of capital outside the United Kingdom<sup>112</sup>**

Capital which an applicant possesses in a country outside the United Kingdom must be calculated -

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

## **73. Notional capital<sup>113</sup>**

(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 74 (diminishing notional capital rule).

(2) 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 4; 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 4 (capital disregards) 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 4 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.

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<sup>112</sup> Reg. 66, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>113</sup> Reg. 67, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

(3) Any payment of capital, other than a payment of capital 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 sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Sub-paragraph (3) does not apply in respect of a payment of capital made -

- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, 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.

(5) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case -

(a) the value of his holding in that company must, notwithstanding paragraph 69 (calculation of capital) be disregarded; and

(b) he must, subject to sub-paragraph (6), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this part apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(6) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (5) is to be disregarded.

(7) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (2) or (3) the foregoing provisions of this part apply for the purposes of calculating its amount as if it were actual capital which he does possess.

#### **74. Diminishing notional capital rule<sup>114</sup>**

(1) Where an applicant is treated as possessing capital under paragraph 73(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);

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<sup>114</sup> Reg. 69, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

- (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 paragraph (5).
- (2) This paragraph applies to a reduction week or part-week, where the applicant satisfies the conditions that -
  - (a) he is in receipt of a reduction in council tax under this discount scheme; and
  - (b) but for paragraph 73(1), he would have received a greater reduction in council tax under this discount 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 sub-paragraph (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 sub-paragraph (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 73(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 73(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 sub-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 sub-paragraph is to be determined by -
- (a) dividing the relevant amount by the number equal to the number of days in that part- week, 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 application for a reduction in council tax and the conditions in sub-paragraph (8) are satisfied, and in such a case -
- (a) sub-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 application is made 26 or more weeks after -
- (i) the date on which the applicant made an application for a reduction in council tax in respect of which he was first treated as possessing the capital in question under paragraph 73(1);
  - (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (7), the date on which he last made an application 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 under this discount scheme,
- whichever last occurred; and
- (b) the applicant would have been entitled to a reduction in council tax under this discount scheme but for paragraph 73(1).

(9) The amount as re-determined pursuant to sub-paragraph (7) 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 discount 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 73(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 re-determining 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 sub-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 application or, if more than one further application has been made, the last such application was made.

#### **75. Capital jointly held<sup>115</sup>**

Except where an applicant possesses capital which is disregarded under paragraph 73(7) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this part 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.

#### **76. Calculation of tariff income from capital<sup>116</sup>**

(1) The capital of an applicant calculated in accordance with this Part is to be treated as if it were a weekly income of -

- (a) £1 for each complete £250 in excess of £6,000, but not exceeding £16,000, and
- (b) £1 for any excess which is not a complete £250

### **Part 18 - Students - General**

#### **77. Interpretation<sup>117</sup>**

(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

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<sup>115</sup> Reg. 70, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>116</sup> Reg. 72, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>117</sup> Reg. 73, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

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 under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009<sup>118</sup>; 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;

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<sup>118</sup> SI 2012/2886 – amended by SI 2015/971 - Chief Executive of Skills Funding abolished

“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, or under section 100 of the Apprenticeships, Children, Skills and Learning Act 2009 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<sup>119</sup>;
- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, or under section 100 of the Apprenticeships, Children, Skills and Learning Act 2009 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<sup>120</sup>-
  - (i) in the case of a course funded by the Secretary of State in the student’s learning agreement signed on behalf of the establishment which is funded by the Secretary of State 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 16 of Schedule 3 or paragraph 55 of Schedule 4 applies;

“grant income” means—

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

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<sup>119</sup> Consequential amendments to Si 2015/971 – Chief Executive of Skills Funding abolished wef 26 May 2015

<sup>120</sup> Consequential amendments to Si 2015/971 – Chief Executive of Skills Funding abolished wef 26 May 2015

“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;

“postgraduate master’s degree loan” means a loan which a student is eligible to receive under the Education (Postgraduate Master’s Degree Loans) Regulations 2016<sup>121</sup>;

“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 sub-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

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<sup>121</sup> Consequential amendment to HB SI 2016/743 in relation to financial years on or after 1<sup>st</sup> April 2017

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 sub-paragraph (c) applies, in the case of a student residing at his parent’s home, the amount specified in sub-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, 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 sub-paragraph (a) of sub-paragraph (2), the period referred to in that paragraph includes—

- (a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(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.

## **78. Treatment of students<sup>122</sup>**

This discount scheme has effect in relation to students subject to paragraph 43 (class of person excluded from this discount scheme: students) and the following provisions of this Part.

## **79. Students who are excluded from entitlement to a council tax reduction under this discount scheme<sup>123</sup>**

(1) The students who are excluded from entitlement to a reduction under this discount scheme are, subject to sub-paragraphs (2) and (7); -

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

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

- (a) who is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance;
- (aa) who is a person on universal credit, except where the applicant or his partner is a person with earned income<sup>124</sup>;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;

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<sup>122</sup> Reg. 74, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>123</sup> Reg. 75, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>124</sup> Consequential to the Universal Credit Regulations



- (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) aged 21 and attained that age during a course of study which is not a course of higher education, or
  - (iii) 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) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

(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.

(6) A full-time student to whom sub-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)(b) does not apply to a full-time student for the period specified in sub-paragraph (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 sub-paragraph (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.

## Part 19 - Student Income

### 80. Calculation of grant income<sup>125</sup>

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

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

- (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;
- (j) in Wales, of higher education bursary for category 3 and category 4 young persons made under section 110 or 112 of the Social Services and Well-being (Wales) Act 2014, in accordance with regulations made under section 116 of that Act<sup>126</sup>;

(2A) In sub-paragraph (2) "category 3 and category 4 young persons" have the meaning given in section 104(2) of the Social Services and Well-being (Wales) Act 2014<sup>127</sup>

(3) Where a student does not have a student loan [or a postgraduate master's degree loan<sup>128</sup>] and is not treated as possessing [a student loan or a postgraduate master's degree loan<sup>129</sup>], there must be excluded from the student's grant income—

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

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<sup>125</sup> Reg. 76, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>126</sup> SI 2012/2886 – sub-para (j) inserted by SI 2016/211 wef 06 April 2016

<sup>127</sup> SI 2012/2886 – para (2A) inserted by SI 2016/211 wef 06 April 2016

<sup>128</sup> Consequential amendment to HB SI 2016/743 in relation to financial years on or after 1<sup>st</sup> April 2017

<sup>129</sup> Consequential amendment to HB SI 2016/743 in relation to financial years on or after 1<sup>st</sup> April 2017

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 84(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.

## **81. Calculation of covenant income where a contribution is assessed<sup>130</sup>**

(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.

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<sup>130</sup> Reg. 77, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

(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 sub-paragraph (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 80(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).

### **82. Covenant income where no grant income or no contribution is assessed<sup>131</sup>**

(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 80(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 80(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 sub- paragraphs (a) to (d) of sub-paragraph (1), except that—

(a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 80(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 80(2)(f) and (g) and (3).

### **83. Relationship with amounts to be disregarded under Schedule 3<sup>132</sup>**

No part of a student's covenant income or grant income is to be disregarded under

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<sup>131</sup> Reg. 78, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>132</sup> Reg. 79, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

paragraph 19 of Schedule 3 (disregard of certain charitable and voluntary etc. payments).

#### **84. Other amounts to be disregarded<sup>133</sup>**

(1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 85 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 80(2) (calculation of grant income), necessary as a result of his attendance on the course must 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 80(2) or (3), 81(3), 82(1)(a) or (c) or 85(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

#### **85. Treatment of student and postgraduate master's degree loans<sup>134</sup>**

(1) A student and a postgraduate master's degree 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

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<sup>133</sup> Reg. 80, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>134</sup> Reg. 81, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886, including consequential amendment to HB 2016/743 in relation to financial years beginning on or after 01 April 2017

which, in the opinion of the authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" has the same meaning as for the purposes of the Education (Student Support) Regulations 2005;

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

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

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

and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;

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

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

(ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term,

and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of June,

and, in all cases, from the weekly amount so apportioned £10 is to be disregarded.

(3) A student is to be treated as possessing a student loan [or a postgraduate master's degree loan<sup>135</sup>] in respect of an academic year where—

(a) a student loan {or postgraduate master's degree loan<sup>136</sup>} has been made to him in respect of that year; or

(b) he could acquire [a student loan or postgraduate master's degree loan<sup>137</sup>] 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

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<sup>135</sup> Consequential amendment to HB 2016/743 in relation to financial years beginning on or after 01 April 2017

<sup>136</sup> Consequential amendment to HB 2016/743 in relation to financial years beginning on or after 01 April 2017

<sup>137</sup> Consequential amendment to HB 2016/743 in relation to financial years beginning on or after 01 April 2017



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.

(4A)<sup>138</sup> Where a student is treated as possessing a **postgraduate** master's degree loan under sub-paragraph (3) in respect of an academic year, the amount of that loan to be taken into account as income shall be, subject to sub-paragraph (5), a sum equal to 30 per cent. of the maximum **postgraduate** master's degree loan the student is able to acquire in respect of that academic year by taking reasonable steps to do so.

(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.

(6) A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income

#### **86. Treatment of payments from access funds<sup>139</sup>**

(1) This paragraph applies to payments from access funds that are not payments to which paragraph 89(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 3 (disregards in the calculation of income other than earnings) -

(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

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<sup>138</sup> Consequential amendment to HB 2016/743 – sub-para (4A) inserted in relation to financial years beginning on or after 01 April 2017

<sup>139</sup> Reg. 82, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

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.

### **87. Disregard of contribution<sup>140</sup>**

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.

### **88. Further disregard of student's income<sup>141</sup>**

Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant, student loan [or postgraduates master's degree loan<sup>142</sup>], the amount taken into account must be disregarded in assessing that student's income.

### **89. Income treated as capital<sup>143</sup>**

(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.

### **90. Disregard of changes occurring during summer vacation<sup>144</sup>**

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

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<sup>140</sup> Reg. 83, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>141</sup> Reg. 84, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>142</sup> Consequential amendment to HB 2016/743 in relation to financial years beginning on or after 01 April 2017

<sup>143</sup> Reg. 85, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>144</sup> Reg. 86, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

the date on which the change occurred to the end of that vacation.

## **Part 20 - Extended Reductions**

### **91. Extended reductions (qualifying income-related benefits)<sup>145</sup>**

(1) An applicant who is entitled to a reduction under this discount scheme by virtue of falling within any of the classes D to G is 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 must 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 discount scheme by virtue of falling within any of the classes D to G where—

- (a) the applicant ceased to be entitled to a reduction under this discount 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

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<sup>145</sup> Reg. 95, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

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.

**92. Duration of extended reduction period: (qualifying income-related benefits)<sup>146</sup>**

(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.

**93. Amount of extended reduction: (qualifying income-related benefits)<sup>147</sup>**

(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 discount scheme to which the applicant was entitled by virtue of falling within any of the classes D to G 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 discount scheme to which the applicant would be entitled by falling within any of the classes D to G for any reduction week during the extended reduction period, if paragraph 91 (extended reductions: qualifying income-related benefits) did not apply to the applicant; or
- (c) the amount of reduction under this discount scheme to which the applicant's partner would be entitled by virtue of falling within any of the classes D to G, if paragraph 91 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 an application for a reduction under this discount

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<sup>146</sup> Reg. 96, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>147</sup> Reg. 97, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

scheme, no amount of reduction under this discount scheme is to be awarded by the authority during the extended reduction period.

**94. Extended reductions—movers: (qualifying income-related benefits)<sup>148</sup>**

(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 discount scheme to which the mover would have been entitled had they, or their partner, not 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 second authority, the extended reduction may take the form of a payment from this authority to—

- (a) the second authority; or
- (b) the mover directly.

**95. Relationship between extended reduction and entitlement to reduction by virtue of classes D to F<sup>149</sup>**

(1) Where an applicant's entitlement to a reduction under this discount scheme would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 91(1)(b), that entitlement does not cease until the end of the extended reduction period.

(2) Paragraphs 102 and 103 do not apply to any extended reduction payable in accordance with paragraph 91(1)(a) or 94(2) (amount of extended reduction—movers)

**96. Extended reductions (qualifying contributory benefits)<sup>150</sup>**

(1) An applicant who is entitled to a reduction under this discount scheme by virtue of falling within classes D to F is 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;

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<sup>148</sup> Reg. 98, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>149</sup> Reg. 99 Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>150</sup> Reg. 100, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

- (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 discount scheme by virtue of falling within classes D to F where—

- (a) the applicant ceased to be entitled to a reduction under this discount 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).

#### **97. Duration of extended reduction period (qualifying contributory benefits)<sup>151</sup>**

(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.

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<sup>151</sup> Reg. 101, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

**98. Amount of extended reduction (qualifying contributory benefits)<sup>152</sup>**

(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 discount scheme to which the applicant was entitled by virtue of falling within classes D to F 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 discount scheme to which the applicant would be entitled by virtue of falling within classes D to F for any reduction week during the extended reduction period, if paragraph 96 (extended reductions (qualifying contributory benefits) did not apply to the applicant; or
- (c) the amount of reduction under this discount scheme to which the applicant's partner would be entitled by virtue of falling within classes D to F, if paragraph 96 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 discount scheme, no amount of reduction may be allowed by the appropriate authority during the extended reduction period.

**99. Extended reductions (qualifying contributory benefits) - movers<sup>153</sup>**

(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 discount 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 a second authority, 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.

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<sup>152</sup> Reg. 102, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>153</sup> Reg. 103, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886



### **100. Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to F<sup>154</sup>**

(1) Where an applicant's reduction under this discount scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 91(1)(b), that reduction does not cease until the end of the extended reduction period.

(2) Paragraphs 102 and 103 do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 96(1)(a) or 98(2) (amount of extended reduction—movers

### **101. Extended reductions: applicant moving into the authority's area**

Paragraph 24 has effect

## **Part 21 - When entitlement begins and change of circumstances**

### **102. Date on which entitlement begins<sup>155</sup>**

(1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for a reduction under this discount scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.

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

### **103. Date on which change of circumstances is to take effect<sup>156</sup>**

(1) Except in cases where paragraph 66 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph, a change of circumstances which affects entitlement to, or the amount of, a reduction under this discount scheme ("change of circumstances"), takes effect from the first day of the reduction week in which the change actually occurs.

(1A) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit<sup>157</sup>.

(1B) Where that change is an award of universal credit or a change to the amount of universal credit awarded, the date of change is the first day of the relevant assessment

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<sup>154</sup> Reg. 104, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>155</sup> Reg. 106, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886

<sup>156</sup> Reg. 107, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886, para (10 - (13) applicable to pensioners only - omitted

<sup>157</sup> Correction

period under paragraph 52(5), as is appropriate in each case<sup>158</sup>.

(2) Where a change of circumstances increases the amount of the reduction to which a person is entitled under this discount scheme, subject to sub-paragraphs (3) to (7), it takes effect from the first day of the reduction week following the date the change actually occurs.

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

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

(5) Where the change of circumstances is an amendment to this discount scheme it shall take effect from the date on which the amendment to this discount scheme takes effect.

(6) 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.

(7) 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.

(8) 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 (7) they take effect from the day to which the appropriate sub-paragraph from (3) to (7) above refers, or, where more than one day is concerned, from the earlier day.

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

(10) Without prejudice to sub-paragraph (9), 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 discount scheme.

#### **104. Back-dating of applications**

(1) Where an applicant—

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<sup>158</sup> Consequential amendment to Paragraph 52 – treatment of universal credit

- (a) makes an application under this discount 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 three calendar months before the date the application was made;
- (c) the day three calendar months before the date when the applicant requested that the application should include a past period.

## **Part 22 – Reductions and adjustments to liability**

### **105. Reductions to liability**

Subject to paragraph 106, where a person is entitled to a reduction under this discount scheme in respect of his liability for the authority's council tax, it has effect in respect of a chargeable financial year from the date entitlement begins in accordance with paragraph 26 (date on which an application is made) until the last day in the relevant chargeable financial year;

### **106. Adjustments to the amount of reduction**

Where, due to a change of circumstances or other correction that effects the amount of reduction that an applicant is entitled to under this discount scheme –

- (a) the amount of the reduction is adjusted in accordance with this discount scheme, and has effect from the date that change takes effect under paragraph 103 (Date on which a change of circumstances is to take effect) until the last day of council tax liability in the chargeable financial year; and
- (b) the authority will issue a revised Demand Notice and adjust payments of council tax liability in accordance with regulation 20 of the Council Tax (Administration & Enforcement) Regulations 1992.

### **107. Reductions in the amount of a reduction**

Any amount which has been awarded by way of a reduction and to which there was no entitlement under this discount scheme or any such scheme which preceded it, whether on the initial decision or as subsequently adjusted or further adjusted, is, subject to paragraph 108, always applied.

### **108. Reductions in the amount of a reduction due to official error**

(1) This paragraph applies to a reduction awarded in consequence of an official error, where the claimant or a person acting on his behalf or any other person to whom the reduction is awarded could not, at the time the reduction was awarded or adjusted or upon receipt of any notice relating to the award or adjustment of the reduction, reasonably have been expected to realise that it was incorrect;

(2) Where in consequence of an official error a person to whom sub-paragraph (1) applies has been awarded an amount of reduction under this discount scheme to which he is not entitled, the authority may award a discretionary reduction under section 13A(1)(c) of the 1992 Act to reduce the amount of council tax the person is liable to pay to such an extent it thinks fit including the power to reduce the amount of council tax the person is liable to pay to nil;

(3) "official error" means an amount of reduction awarded due to a mistake made whether in the form of an act or omission by -

(a) the authority or an officer or person acting for that authority;

(b) an officer of or person providing services to the Department for Work and Pensions or the Commissioners for Her Majesty's Revenue and Customs,

where the applicant, a person acting on his behalf or any other person to whom the reduction is made, did not cause or materially contribute to that mistake, act or omission.

## **Part 23 – Suspension and Termination of a reduction**

### **109. Cases where a reduction may be suspended**

(1) The authority has the discretion to suspend, in whole or in part any reduction awarded under this discount scheme in the circumstances prescribed in sub-paragraph (2).

(2) The prescribed circumstances are where -

(a) it appears to the authority that an issue arises whether-

(i) the conditions for entitlement to a reduction are or were fulfilled; or

(ii) a decision as to an award or the amount of a reduction should be adjusted;

(b) persons fail to comply with the information requirements under paragraph 27 (Information and evidence);

(c) an appeal is pending against a decision of the Valuation Tribunal or a decision given in a different case, and it appears to the authority that if the appeal were to be determined in a particular way an issue would arise whether the award of a reduction in the case itself ought to be adjusted.

(3) The authority shall notify any person to whom sub-paragraph (2) applies of the decision to suspend a reduction, the reasons for that decision and what steps the person is required to take to restore a suspended reduction.

- (4) A person to whom sub-paragraph (2) applies must -
- (a) furnish the information or evidence needed within a period of-
- (i) one month beginning with the date on which the notification under paragraph (3) was sent to him; or
  - (ii) such longer period as the authority considers necessary in order to enable him to comply with the requirement; or
- (b) satisfy the authority within the period provided for in sub-paragraph (4)(a) that -
- (i) the information or evidence so required does not exist; or
  - (ii) it is not possible for him to obtain the information or evidence so required
- (5) Subject to paragraph 110 (Restoring a suspended reduction), where a person satisfies the requirements in sub-paragraph (4), the authority shall, so far as practicable, restore, the reduction within 14 days of the decision to restore that reduction.

#### **110. Restoring a suspended reduction**

A suspended reduction must be restored –

- (a) in a case to which sub-paragraphs (2)(a) and (2)(b) of paragraph 109 (cases where a reduction may be suspended) applies, where the authority is satisfied that the reduction so suspended is properly awarded and no outstanding issues remain to be resolved;
- (b) in a case to which sub-paragraph (2)(c) of paragraph 109 (cases where a reduction may be suspended) applies, an appeal is no longer pending and entitlement remains to the reduction awarded following the determination of that appeal.

#### **111. Cases where a reduction is terminated**

- (1) A person in respect of whom a reduction has been suspended under paragraph 109 (cases where a reduction may be suspended), shall cease to be entitled to the reduction from the date on which the reduction was suspended, or such earlier date on which entitlement to a reduction ceases.
- (2) A person to whom paragraph 109 (cases where a reduction may be suspended), has not been applied shall nonetheless cease to be entitled to the reduction so awarded where he fails to provide information and evidence requested by the authority under paragraph 27 from the date on which the decision is taken to terminate the award.
- (3) A decision to terminate the award under sub-paragraphs (1) and (2) can not apply before the end of the period allowed under paragraph 109(4)(a).

## **Part 24 – Failure to comply with the duty to notify of a change of circumstances**

### **112. Failure to notify of a change of circumstances**

(1) A person is guilty of an offence under regulation 8 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 where –

(a) there has been a change of circumstances affecting the entitlement of that person or to another person under this discount scheme; and

(b) that person is required to give notice of the change to the authority under paragraph 29 (Duty to notify of a change of circumstances) of this discount scheme; and

(c) that person knows that the change affects his or another person's entitlement to a reduction, or the amount of reduction, under this discount scheme; and

(d) that person fails to give a prompt notification of that change in the manner required under paragraph 29 (Duty to notify of a change of circumstances) of this discount scheme.

(2) A notification of a change is prompt if, and only if, it is given within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later

### **113. Penalties for failing to notify a change of circumstances**

(1) The authority may impose a penalty under regulation 13 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 of £70 on a person where -

(a) that person, without reasonable excuse, fails to give a prompt notification of a relevant change of circumstances to the authority in accordance with requirements imposed on him under paragraph 29 (Duty to notify of a change of circumstances) of this discount scheme;

(b) the failure results in an award of a reduction under this discount scheme which is greater than the amount to which that person was entitled (an "excess reduction"); and

(c) that person has not been charged with an offence or cautioned, or been given a notice under regulation 11 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, in respect of the excess reduction.

(2) In this regulation, "relevant change of circumstances", in relation to a person, means a change of circumstances which that person might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's discount scheme.

(3) A penalty under regulation 13 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 shall be paid to the authority imposing it.

## **Schedule 1 - Premiums<sup>159</sup>**

### **Part 1 - Introduction**

1. Except as provided in paragraph 2 of this Schedule, the premiums specified in Part 2 are, for the purposes of Part 11, be applicable to an applicant who satisfies the condition specified in paragraphs 3 to 6 of this Schedule in respect of that premium.
2. For the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—
  - (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
  - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.

### **Part 2 - Conditionality**

#### **Disability premium**

3. 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 4 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 4(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 4(1)(a) is satisfied by his partner.

#### **Additional condition for the disability premium**

4. (1) Subject to sub-paragraph (2) and paragraph 2, the additional condition referred to in paragraph 3 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,

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<sup>159</sup> Sch 3 of SI 2012/2886 substituted under BFC local scheme requirements in relation to financial years on or after 01 April 2017



disability living allowance, personal independence payment, and armed forces 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, 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 or a state pension under Part 1 of the Pensions Act 2014 and the applicant has since remained continuously entitled to -

(aa) council tax benefit in relation to the period prior to 1<sup>st</sup> April 2013 and,

(bb) a reduction under this discount scheme (in relation to the period commencing on 1<sup>st</sup> April 2013), and

if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or

(iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 64(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 64(11)(i) (treatment of child care charges); or

(v) was in receipt of an armed forces independence payment, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

(vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972; or

(vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services), 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 is registered as severely sight-impaired in a register kept by a local authority in Wales under section 18(1) of the Social Services and Well-being (Wales) Act 2014; or

(b) the applicant—

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

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

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

(bb) in any other case, 364 days.

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

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he is, on again becoming so incapable of work, immediately thereafter to be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he is to continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

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

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

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—

(a) the reference to a period of 8 weeks in sub-paragraph (3); and

(b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

### **Severe disability premium**

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

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

(a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—

(i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an armed forces independence payment; 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 or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013<sup>160</sup>;

(b) in the case of an applicant who has a partner—

(i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an armed forces independence payment; 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 or has an award of universal credit that includes the carer element 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 or has such an award of universal credit in respect of caring for either member of a couple or any partner of a polygamous marriage<sup>161</sup>.

(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 severely sight-impaired<sup>162</sup> or is treated

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<sup>160</sup> Amendment consequential to SI 2015/2041

<sup>161</sup> Amendment consequential to SI 2015/2041

<sup>162</sup> Consequential amendment to SI 2012/2885 Sch 2(3)(6)(3), (4) and (5) amended by SI 2015/643 in relation to

as such within the meaning of paragraph 4(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

(a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or

(b) a person who is blind or severely sight-impaired or is treated as such within the meaning of paragraph 4(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated -

(a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an armed forces independence payment, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

(b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).

### **Enhanced disability premium**

6. (1) Subject to sub-paragraph (2), the condition is that—

(a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or

(b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable

at the highest rate prescribed under section 72(3) of the SSCBA in respect of—

- (i) the applicant; or
- (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—

- (i) the applicant; or
- (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit.

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

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

(a) an applicant who—

- (i) is not a member of a couple or a polygamous marriage; and
- (ii) is a patient within the meaning of paragraph 64(11)(e) (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 64(11)(e) and has been for a period of more than 52 weeks.

### **Persons in receipt of concessionary payments**

7. For the purpose of determining whether a premium is applicable to a person under paragraphs 3 to 6 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

### **Persons in receipt of benefit for another**

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

## **SCHEDULE 2<sup>163</sup> - Sums disregarded in the calculation of earnings**

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 a state pension under Part 1 of the Pensions Act 2014<sup>164</sup>] or is not so entitled solely because of his failure to satisfy the contribution conditions [or to have the minimum number of qualifying years<sup>165</sup>],

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 discount 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 57(1)(e) (retainer), 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 57(1)(g) or (i), (compensation etc. relating to employment); 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 discount scheme—

(i) the employment has not been terminated, but

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<sup>163</sup> Sch 7, Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886 as amended

<sup>164</sup> Consequential amendment to SI 2015/1985 – Words inserted

<sup>165</sup> Consequential amendment to SI 2015/1985 – Words inserted

(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 57(1)(j) (statutory sick pay etc.);

**2.** In the case of an applicant who, before the first day of entitlement to a reduction under this discount 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 57(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 59(3) and (4) (earnings of self-employed earners) apply.

**4.** (1) In a case to which this paragraph applies and paragraph 5 does not apply, £25<sup>166</sup>, but notwithstanding paragraph 50 (calculation of income and capital: applicant's family and polygamous marriages) 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 £25.

(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 1 (applicable amounts).

(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 1; 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, £30<sup>167</sup>.

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<sup>166</sup> Amounts in para 4 amended by order of BFC in relation to financial years on or after 01 April 2016

<sup>167</sup> Amount in para 5 amended by order of BFC in relation to financial years on or after 01 April 2016



**6.** In a case where paragraphs 4 and 7 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £15<sup>168</sup>; but, notwithstanding paragraph 50 (calculation of income and capital: applicant's family and polygamous marriages), if this paragraph applies to an applicant it must 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 £15.

**7. (1)** In a case where paragraphs 4 and 5 do not apply to the applicant, £25<sup>169</sup> 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 or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005;<sup>170</sup>;
- (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 50 (calculation of income and capital: applicant's family and polygamous marriages), 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 £25;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £15 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £25<sup>171</sup>.

**8.** Where the applicant is engaged in one or more employments specified in paragraph 7(1), but his earnings derived from such employments are less than £25 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £10 if he is a single applicant, or up to £15 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 7 exceed £25<sup>172</sup>.

**9.** In a case to which none of the paragraphs 4 to 8 applies, £10<sup>173</sup>.

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<sup>168</sup> Amount in para 8 amended by order of BFC in relation to financial years on or after 01 April 2016

<sup>169</sup> Amount in para 9(1) amended by order of BFC in relation to financial years on or after 01 April 2016

<sup>170</sup> Consequential amendment to SI 2012/2885 Sch 4(3)(2)(b) substituted by SI 2013/3181 in relation to financial years on or after 01 April 2015

<sup>171</sup> Amounts in para 9(2) amended by order of BFC in relation to financial years on or after 01 April 2016

<sup>172</sup> Amounts in para 10 amended by order of BFC in relation to financial years on or after 01 April 2016

<sup>173</sup> Amount in para 11 amended by order of BFC in relation to financial years on or after 01 April 2016

**10. (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 12 does not apply,

the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 4 to 9 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 50 (calculation of income and capital: applicant’s family and polygamous marriages), if sub-paragraph (1) applies to one member of a couple (“A”) it does 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 must 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; 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 regulation 7 of the Employment and Support Allowance Regulations 2013;174 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.

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<sup>174</sup> Consequential amendment to SI 2012/2885 Sch 4(6)(6)(a) amended by SI 2015/643 in relation to financial years on or before 01 April 2015

(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).

**11.** Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 3 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

**12.** Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.

**13.** 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.

**14.** 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.

**15.** Any earnings of a child or young person.

**16.** (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 10 must 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 dependants allowance under Schedule 1, part 1A<sup>175</sup>; 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;

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<sup>175</sup> Dependants allowance replaces family premium in relation to financial years on or after 01 April 2016

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 1 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 sub-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 10 of this Schedule;

(b) the amount of child care charges calculated as deductible under paragraph 63(1)(c); and

(c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) is to 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.

17. In this Schedule "part-time employment" means employment in which the person is engaged on average for less than 16 hours a week.

### **SCHEDULE 3<sup>176</sup> - Sums disregarded in the calculation of income other than earnings**

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.

2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.

3. Any payment made to the applicant in respect of any travel or other expenses

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<sup>176</sup> Sch 8, Council Tax Reduction Schemes (Default Scheme) Regulations 2012

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 paragraph 60 (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 62(5) (notional income).

**6.** Any payment in respect of expenses arising out of the applicant's participation as a service user.

**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.

**8A.<sup>177</sup>** (1) Paragraph 8 does not apply where the applicant receives child maintenance.

(4) In this paragraph; -

"child maintenance" means 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 claimant's family, except where the person making the payment is the claimant or the claimant's partner, including any payment made voluntarily and payments made under—

(a) the Child Support Act 1991;

(b) the Child Support (Northern Ireland) Order 1991;

(c) a court order;

(d) a consent order;

(e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

"liable relative" means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

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<sup>177</sup> Para 8A inserted by order of BFC in relation to financial years on or after 01 April 2016

- 9.** Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
- 10.** Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.
- 11.** Any disability living allowance or personal independence payment, or an AFIP.
- 12.** Any concessionary payment made to compensate for the non-payment of—
- (a) any payment specified in paragraph 11 or 14;
  - (b) income support;
  - (c) an income-based jobseeker's allowance;
  - (d) an income-related employment and support allowance.
- 13.** Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
- 14.** Any attendance allowance.
- 15.** Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
- 16.** (1) Any payment—
- (a) by way of an education maintenance allowance made pursuant to—
    - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.);
    - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
    - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
  - (b) corresponding to such an education maintenance allowance, made pursuant to—
    - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
    - (ii) regulations made under section 181 of that Act; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**17.** Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.

**18.** (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

**19.** (1) Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-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 sub-paragraphs (a) to (d), received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

(2) Sub-paragraph (1) does not apply to a payment which is made or due to be made by—

(a) a former partner of the applicant, or a former partner of any member of the applicant's family; or

(b) the parent of a child or young person where that child or young person is a member of the applicant's family.

**20.** Any of the following, namely—

(a) a war disablement pension; and

(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;

(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) 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 75 (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 4.

(2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 4 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) (interpretation) 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 bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23 an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount must be equal to—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single applicant under 25

less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

**25.** Any payment made to the applicant by a child or young person or a non-dependant.

**26.** Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or

(b) where the aggregate of any such payments is £20 or more per week, £20.

**27.** Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—

(a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;

(b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

**28.** (1) Any income in kind, except where article 60(11)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the applicant, which is used by the third party to provide benefits in kind to the applicant.

**29.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**30.** (1) Any payment made to the applicant in respect of a person who is a member of his family—

(a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);

(b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person

as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);

(c) which is a payment made by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);

(d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

**31.** Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made—

(a) by a local authority under—

(i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),

(ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or

(iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or

(b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

**32.** Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant's household but is temporarily in his care, by—

(a) a health authority;

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

(c) a voluntary organisation;

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

(da) the person concerned where the payment is for accommodation to meet that person's needs for care and support arranged pursuant to section 35 or 36 of the Social Services and Well-being (Wales) Act 2014<sup>178</sup>

(e) a primary care trust established under section 16A of the National Health

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<sup>178</sup> SI 2012/2886 amended by SI 2016/211 sub-para (da) inserted

Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or

- (f) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

**33.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children) [or sections 37, 38, 109, 110 or 114 of the Social Services and Well-being (Wales) Act 2014 but excluding any direct payments under that Act<sup>179</sup>]

**34.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

**35.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974) or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b); and
- (b) meet any amount due by way of premiums on—
  - (i) that policy; or
  - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of

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<sup>179</sup> SI 2012/2886 amended – words inserted by SI 2016/211

the loan referred to in sub-paragraph (1)(a).

**36.** Any payment of income which by virtue of paragraph 70 (income treated as capital) is to be treated as capital.

**37.** Any -

(a) social fund payment made pursuant to Part 8 of the SSCBA (the Social Fund);  
or

(b) occasional assistance.

**38.** Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

**39.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

**40.** The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 50(3) (calculation of income and capital: applicant's family and polygamous marriages) to be disregarded under paragraphs 81(2)(b) and 82(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 85(2) (treatment of student loans), paragraph 86(3) (treatment of payments from access funds) and paragraph 21 of this schedule 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 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 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 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 or further reduction under section 13A 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 a dependants allowance under Schedule 1, part 1A180, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

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<sup>180</sup> Para 49(1) amended - dependants allowance replaces family premium in relation to financial years on or after 01 April 2016 and sub-para (4) inserted

(3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

(4) In sub-paragraph (1) “child maintenance” has the same meaning as paragraph 8A of this schedule

**50.** [Carer’s allowance under section 70 of the SSCBA 1992]<sup>181</sup>

**51.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

**52.** Any guardian’s allowance.

**53.** (1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (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—

(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

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<sup>181</sup> Para 50 substituted by BFC in relation to financial years on or after 01 April 2017

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 16 of Schedule 2, 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) applies only in respect of payments which are paid to that person from the special account.

**61.** (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**62.** Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker’s allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.

**63.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

**64.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.

**65.** (1) Any payment made by a local authority or by the Welsh Ministers, to or on

behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.

**66.** Any payment of child benefit.

**67.** The housing element under regulations 25 and 26 of The Universal Credit Regulations 2013.<sup>182</sup>

## **SCHEDULE 4<sup>183</sup> - Capital disregards**

**1.** Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.

**2.** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.

**3.** Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment.

**4.** The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding paragraph 50 (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—

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<sup>182</sup> Paragraph 67 inserted by BFC local scheme requirements in relation to financial years on or after 01 April 2017

<sup>183</sup> Sch 10, Council Tax Reduction Schemes (Default Scheme) Regulations 2012

- (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
- (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.

**8.** Where an applicant is on income support or an income-related employment and support allowance, the whole of his capital.

**8A.**<sup>184</sup> Where an applicant has, or who jointly with his partner has, an award of universal credit that is calculated on the basis that the person does not have any earned income, 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 discount scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to

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<sup>184</sup> Para 8A inserted by order of BFC in relation to financial years on or after 01 April 2016

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 3;
- (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 Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of a reduction under this discount 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 discount 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 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 discount 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 13 of Schedule 2 or paragraph 29 of Schedule 3.
- 21.** The surrender value of any policy of life insurance.
- 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 -
  - (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
  - (b) occasional assistance.
- 26.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.
- 27.** Any capital which by virtue of paragraph 61(capital treated as income) or paragraph 85 (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 is to 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 13A of the 1992 Act (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

**41.** Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(a) to purchase premises intended for occupation as his home; or

(b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.

**42.** Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 3 (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.

**43.** (1) Any payment or repayment made—

(a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

**44.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

**45.** Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

**46.** Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

**47.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.

**48.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to home workers assisted under the Blind Home Workers' Scheme.

**49.** Omitted

**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.

**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 self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

**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 the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

**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 applies



for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;

- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 20,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—

- (aa) ceases receiving full-time education; or
- (bb) attains the age of 20,

whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant 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.

**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).