



# **The Epsom & Ewell Borough Council (Council Tax Income Discount) (Working Age) 2024**

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## **The Epsom & Ewell Borough Council (Council Tax Income Discount) (Working Age) 2024**

Coming into effect

1 April 2024

Epsom & Ewell Borough Council makes the following scheme in exercise of the functions—

(a) conferred by sections 13A 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.

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## **1. Introduction**

(1) This document sets out the Council Tax Income Discount scheme, adopted by the Council, for working age applicants for the period from 1 April 2024. The scheme for persons who are pensioners is to be found in The Epsom & Ewell Borough Council (Council Tax Reduction Scheme) (Pensioners) 2024.

(2) This scheme may be cited as The Epsom & Ewell Borough Council (Council Tax Income Discount) (Working Age) 2024 and comes into effect on 1st April 2024.

(3) This scheme applies in relation to the billing authority in England known as Epsom & Ewell Borough Council and references in this scheme to “an authority” and “the authority” shall be to Epsom & Ewell Borough Council unless the context otherwise requires.

(4) This document details how the scheme operates for working age applicants and, in accordance with Section 13A of the Local Government Finance Act 1992, specifies the classes of person who are entitled to a discount under the scheme. To apply under this scheme an applicant must be the person who is liable to pay the Council Tax in respect of a dwelling, on any particular day, in accordance with Section 6 of the Local Government Finance Act 1992.

(5) The adopted scheme for working age applicants is an income banded scheme, which compares an applicant’s income and circumstances against a range of discounts available. The authority is required to specify a scheme for working age and therefore this scheme only applies to a person who:

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

(b) has attained the age for qualifying for state pension credit if he, and his partner, is a person on Income Support, on an Income Based Jobseeker’s Allowance, or an Income Related Employment and Support Allowance or on Universal Credit.

(6) The Council has determined that there will be one class of persons who will receive a discount in accordance with the adopted scheme. The scheme has qualifying criteria. In all cases the individuals must not be of a prescribed class exempted from receiving a discount as specified in Part 3 of this scheme.

### **1.1 Annual Review of Council Tax Reduction Scheme**

For each financial year, the authority must consider whether to revise its scheme or to replace it with another scheme. The authority must make any revision to its scheme, or any replacement scheme, no later than 11 March in the financial year preceding that for which the revision or replacement scheme is to have effect.

Having given full consideration to the council tax reduction scheme from April 2020, and following an extensive public consultation, the authority has decided to implement a replacement scheme from 1 April 2021.

## **1.2 Replacement of Council Tax Support scheme from April 2021**

### **1.2.1 Prescribed Statutory Requirements**

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

### **1.2.2 Local Scheme Requirements**

Chapter 2 - Parts 9 to 19 and Schedules 1 to 3 set out the provisions of the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 (the “Default Scheme”), which the authority has adopted within its scheme.

## **1.3 Pensioners**

The Government has said that local authorities must protect pensioners at the same level of support as the council tax benefit scheme and has prescribed 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 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 Income Discount scheme for persons who are not pensioners; the scheme for pensioners is to be found in The Epsom and Ewell Borough Council (Council Tax Reduction Scheme) (Pensioners) 2024.

## **1.4 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.

## **1.5 Vulnerability**

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

In making its scheme, Epsom and Ewell Borough Council 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 council has also decided to retain the 100% local scheme disregard for all types of war pensions from the council tax benefit scheme.

## **2.0 Matters to be included**

2.1 A scheme must state the classes of person who are to be entitled to a reduction.

2.2 The classes may be determined by reference to, in particular -

(a) the income of any person liable to pay council tax to the authority in respect of a dwelling;

(b) the capital of any such person;

(c) the income and capital of any other person who is a resident of the dwelling;

(d) the number of dependants of any person within paragraph (a) or (c);

(e) whether the person has made an application for the reduction.

2.3 A scheme must set out the reduction to which persons in each class are to be entitled; and different reductions may be set out for different classes.

2.4 A scheme must state -

(a) classes of person which must or must not be included in a scheme;

(b) reductions, including minimum or maximum reductions, which must be applicable to persons in stated classes;

(c) requirements which must be met by the procedure mentioned in 2.5

2.5 A scheme must state the procedure by which a person may apply for a reduction under the scheme.

2.6 A scheme must state the procedure by which a person can make an appeal against any decision of the authority which affects -

(a) the person's entitlement to a reduction under the scheme, or

(b) the amount of any reduction to which the person is entitled.

2.7 Subject to compliance with the Prescribed Requirements, a scheme may make provision that is equivalent to provisions made or capable of being made under -



(a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);

(b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;

(c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;

(d) section 6 of that Act (regulations about council tax benefit administration), as it had effect on the day on which the 2012 Act was passed and with such modifications as the authority thinks fit.

2.8 In exercising any function relating to its scheme, the authority must have regard to any guidance issued by the Secretary of State.

## **Chapter 1 - Prescribed Statutory Requirements**

### **Part 1 - Introduction**

#### **1. Citation, amendment and application**

This scheme may be cited as The Epsom and Ewell Borough Council (Council Tax Income Discount) (Working Age) 2024 and comes into effect on 1st April 2024.

This scheme applies in relation to the billing authority in England known as Epsom and Ewell Borough Council and references in this scheme to “the authority” shall be to Epsom and Ewell Borough Council unless the context otherwise requires.

If this 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.

### **Part 2 – Interpretation**

#### **2. Interpretation**

(1) In this scheme -

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

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

“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996;

“adult disability payment” has the meaning given in regulation 2 of the DAWAP Regulations;

“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;

“alternative maximum council tax reduction” means the amount determined in accordance with Part 4 of Schedule 1 and Schedule 3;

“applicable amount” means the amount calculated in accordance with paragraph 6 of Schedule 1 and Schedule 2;

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

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

“approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;

“assessment period” means -

(a) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 20 of Schedule 1 for the purpose of calculating the weekly earnings of the applicant; or

(b) in relation to any other income, the period determined in accordance with paragraph 17 of Schedule 1 for the purpose of calculating the weekly income of the applicant;

“attendance allowance” means -

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

“basic rate” has the meaning given by the Income Tax Act 2007;

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

“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 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 disability payment” has the meaning given by regulation 2 of the DACYP Regulations;

“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 these provisions;

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

“couple” has the meaning given by paragraph 4;

“the DACYP Regulations” means the Disability Assistance for Children and Young People (Scotland) Regulations 2021;

“the DAWAP Regulations” means the Disability Assistance for Working Age People (Scotland) Regulations 2022;

“Default Scheme Regulations” means the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012;

“designated office” means the office of an 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;

“earnings” has the meaning given by paragraph 18, 20 or 21 of Schedule 1 as the case may be;

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000;

“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;

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

“extended reduction” means a reduction under a scheme for which a person is eligible under Part 7 of Schedule 1;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 39 of Schedule 1;

“extended reduction (qualifying contributory benefits)” means a reduction under Schedule 1 by which a person is eligible pursuant to paragraph 38 or 41 of Schedule 1;

“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;

“Grenfell Tower support payment” means a payment made for the purpose of providing compensation or support in respect of the fire on 14<sup>th</sup> June 2017 at Grenfell Tower; By the Royal Borough of Kensington and Chelsea; or

“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 2011;

“historical child abuse payment” means a payment made under-  
(a) Part 1 of the Historical Institutional Abuse (Northern Ireland) Act 2019;

(b) Part 4 of the Redress for Survivors (Historical Child Abuse in Care)(Scotland) Act 2021;

“the Horizon system” means any version of the computer system used by the Post Office known as Horizon, Horizon Legacy, Horizon Online or HNG-X;

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

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

“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;

“the London Emergencies Trust” means the company of that name (number 09928465) incorporated on 23rd December 2015 and registered charity of that name (number 1172307) established on 28th March 2017;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“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 or the applicant is a member of the work-related activity group;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996;

“maximum council tax reduction” means the amount determined in accordance with paragraph 7 of Schedule 1;

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

“member of the work-related activity group” means a person who has or is treated as having limited capability for work under either—  
(a) Part 5 of the Employment and Support Allowance Regulations 2008 other than by virtue of regulation 30 of those Regulations; or  
(b) Part 4 of the Employment and Support Regulations 2013 other than by virtue of regulation 26 of those Regulations;

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;

“mobility supplement” means a supplement to which paragraph 5(1)(a)(v) of Schedule 4 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;

“the National Emergencies Trust” means the registered charity of that name (number 1182809) established on 28<sup>th</sup> March 2019;

“net earnings” means such earnings as are calculated in accordance with paragraph 19 of Schedule 1;

“net profit” means such profit as is calculated in accordance with paragraph 29 of Schedule 1;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraph 41 of Schedule 1, 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;

“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;

“parental bereavement leave” means leave under section 80EA of the Employment Rights Act 1996;

“partner” in relation to a person, means -

(a) where that person is a member of a couple, the other member of that couple; or

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

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

“pension fund holder” means with respect to a personal pension scheme or an occupational pension scheme, the trustees, managers or scheme administrators, as the case may be, of the scheme concerned;

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995;

“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;

(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;

“the Post Office” means Post Office Limited (registered number 02154540);

“Post Office compensation payment” means a payment made by the Post Office or the Secretary of State for the purpose of providing compensation or support which is-

(a) in connection with the failings of the Horizon system; or

(b) otherwise payable following the judgement in Bates and Others v Post Office Ltd ((No 3) “Common Issues”)

“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 course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Job Seeker’s Allowance Regulations 1996;

“qualifying person” means-

a) a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the

Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, a Grenfell Tower support payment, a historical child abuse payment, a Windrush payment, a Post Office compensation payment or a vaccine damage payment has been made or the Windrush Compensation Scheme, the National Emergencies Trust, the victims of Overseas Terrorism Compensation Scheme or the London Bombings Relief Charitable Fund;

“reduction week” means a period of seven consecutive days beginning with a Monday and ending with a Sunday;

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

“relevant week” in relation to any particular day, means the week within which the day in question falls;

“remunerative work” has the meaning given by paragraph 10;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have acquired the qualifying age for state pension credit) Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 8 of Schedule 1 (non-dependant deductions);

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

“Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;

“the Scottish Infected Blood Support Scheme” means the scheme of that name administered by the Common Services Agency (constituted under section 10 of the National Health Service (Scotland) Act 1978(b));

“Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998;

“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;

“shared parental leave” means leave under section 75E or 75G of the Employment Rights Act 1996;

“single applicant” means an applicant who neither has a partner nor is a lone parent;

“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain

persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions;

“sports award” means an award made by one of the Sports Councils named in section 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;

“statutory parental bereavement pay” means a payment to which a person is entitled in accordance with section 171ZZ6 of the Social Security Contribution and Benefits Act 1992;

“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;

“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;

(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;

“vaccine damage payment” means a payment made under the Vaccine Damage Payments Act 1979;

“the victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;

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

“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;

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

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

“the We Love Manchester Emergency Fund” means the registered charity of that name (number 1173260) established on 30th May 2017;

“the Windrush Compensation Scheme means-

(a) the scheme of that name operated by the Secretary of State for the purpose of compensating individuals who have suffered loss in connection with being unable to demonstrate their lawful status in the United Kingdom; and

(b) the policy entitled “Windrush Scheme: Support in urgent and exceptional circumstances” which was operated by the Secretary of State for the purpose of compensating individuals who, for urgent and exceptional reasons, required support in advance of the scheme referred to in paragraph (a) of this definition becoming operational;

“Windrush payment” means a payment made under the Windrush Compensation Scheme (Expenditure) Act 2020;

“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 scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.

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

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

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

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

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

(b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.

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

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

(7) In this scheme, references to a person in class A, B or C (as the case may be) is a reference to Class A, B, or C described in paragraphs 2 to 4 of Schedule 1.

(8) References in these Regulations to an applicant participating as 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) 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(d); 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 carer is not being consulted as described in that sub-paragraph.

### **3. Application of scheme: pensioners and persons who are not pensioners**

(1) In this scheme a person is -

(a) a "pensioner" if -

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

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

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

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

(b) a “person 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.

(2) For the purposes of sub-paragraphs (a)(ii)(bb) and (b)(ii)(bb) in paragraph (1) an award of universal credit is to be disregarded during the relevant period’

(3) In this regulation-

“assessment period” has the same meaning as in Universal Credit Regulations 2013;

“relevant period” means the period beginning with the day on which P and each partner of P has attained the qualifying age for state pension credit and ending with the day on which the last assessment period for universal credit ends.

#### **4. Meaning of “couple”**

(1) In this scheme “couple” means -

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

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

(c) two people of the same sex who are civil partners of each other and are members of the same household; or

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.

(2) Two people of the same sex 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.

#### **5. Meaning of “family”**

(1) In this scheme “family” means -

(a) a couple;

(b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or

(c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.

(2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA 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.

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

(1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom paragraph 6(2) applies.

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

(a) the person who is receiving child benefit in respect of that child or young person, or

(b) if there is no such person—

(i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or

(ii) in any other case the person who has the primary responsibility for him.

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



## 7. Households

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

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

(a) placed with the applicant or his partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or

(b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or

(c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 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 -

(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.

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; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

## **8. Non-dependants**

(1) In this 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) 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);
- (c) 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);
- (d) 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;
- (e) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

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

(a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either -

(i) that person is a close relative of his or his partner; or

(ii) the tenancy or other agreement between them is other than on a commercial basis;

(b) a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of a scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;

(c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the change giving rise to the new liability was not made to take advantage of a scheme.

## **9. Remunerative work**

(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 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

(a) no other payment is made or is expected to be made to him.

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

#### **10. Pensioners**

(1) 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 scheme under The Epsom and Ewell Borough Council (Council Tax Reduction Scheme) (Pensioners) 2020.

#### **11. Persons treated as not being in Great Britain**

(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 the authority's 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>4</sup>; 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) omitted

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

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

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

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

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

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

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

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

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

(za) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of-

(i) the Afghan Relocations and Assistance Policy; or

(ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);

(zb) a person in Great Britain not coming within sub-paragraph (za) or (e) who left Afghanistan in connection with the collapse of the Afghan government that took place on 15<sup>th</sup> August 2021;

(zc) a person in Great Britain who was residing in Ukraine immediately before 1<sup>st</sup> January 2022, left Ukraine in connection with the Russian invasion which took place on 24<sup>th</sup> February 2022 and-

(i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;

(ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or

(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;

(zd) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7<sup>th</sup> October 2023, left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7<sup>th</sup> October 2023 or the violence which rapidly escalated in the region following the attack and-

(i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971,

(ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or

(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;

(ze) a person who was residing in Sudan before 15th April 2023, left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan and—

(i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971,

(ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or

(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;

(a) a qualified person for the purposes of regulation 67 of the EEA Regulations as a worker or a self-employed person;

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

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

(ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (4A)(b), provided that the relevant person of Northern

Ireland falls within paragraph (5)(a), or would do so but for the fact that they are not an EEA national;

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

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

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

(e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971;

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

(g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 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);

(i) omitted

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

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

(8) In this paragraph -

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

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

"EEA National" has the meaning given in regulation 2(1) of the EEA Regulations;

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2016 and references to the EEA Regulations are to be read with Schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) Regulations 2020;

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

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

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

## **12. Persons subject to immigration control**

(1) 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 and which must not be included in an authority’s scheme.

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

### **12A. Provision for all applicants: energy rebate scheme 2022**

(1) A scheme must include provision that any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining-

- (a) an applicant’s entitlement to a reduction under the scheme; or
- (b) the amount of any reduction to which the applicant is entitled.

(2) in this regulation “the Energy Rebate Scheme 2022” means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3<sup>rd</sup> February 2022.

## **Part 4 - Procedural Matters**

### **13. Procedure by which a person may apply for a reduction under the authority’s scheme**

(1) Sub-paragraphs (2) to (5) apply to an application made under the authority’s scheme.

(2) An application must be made -

- (a) on-line, via the authority’s website ([www.epsom-ewell.gov.uk](http://www.epsom-ewell.gov.uk)),

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

(4) If an on-line application is defective the authority must provide the person making the application with an opportunity to correct the defect.

(5) An on-line application is defective if the applicant does not provide all the information the authority requires.

#### **14. Procedure by which a person may appeal against certain decisions of the authority**

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

(a) the person's entitlement to a reduction under its 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.

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

(1) An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act must be made in accordance with the Epsom & Ewell Borough Council Discretionary Relief policy available at:

[www.epsom-ewell.gov.uk/residents/council-tax/help-your-council-tax](http://www.epsom-ewell.gov.uk/residents/council-tax/help-your-council-tax)

(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 scheme, that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).

#### **15A. Procedure for uprating values within this scheme**

Any figures set out within this scheme may be uprated, to take effect on 1st April each year following the commencement of the scheme:

(a) as defined by the authority; or

(b) by the consumer price index; or

(c) by the retail price index; or

(d) by another rate determined with reference to provisions made for housing benefit and universal credit.

#### **15B. Provision for all applicants: Homes for Ukraine Scheme**

(1) A scheme must include provision that any payment made in connection with the Homes for Ukraine scheme is to be disregarded in determining—

(a) an applicant's entitlement to a reduction under the scheme; or

(b) the amount of any reduction to which the applicant is entitled.

(2) In this regulation—

“the Homes for Ukraine scheme” means the Homes for Ukraine sponsorship scheme which was announced in Parliament by the Secretary of State for Levelling Up, Housing and Communities on 14th March 2022.

### **Part 5 - Electronic Communication**

#### **16. Interpretation**

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.

## **17. 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 Income Discounts under its 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;

(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.

## **18. 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.

### **19. 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 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 subparagraph (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.

### **20. 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.

### **21. 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.

## **22. 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 - Applications**

### **23. Making an application**

(1) In the case of a couple 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 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 scheme and to receive and deal on his behalf with any sums payable to him.

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

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

- (a) it may at any time revoke the appointment;
  - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
  - (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by this scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.

(7) The authority must -

- (a) inform any person making an application of the duty imposed by paragraph 27(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.

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

(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;

(c) in a case where -

(iv) 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 an authority's scheme, and

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

the date of the death or separation;

(d) except where paragraph (c) is satisfied, in a case where a properly completed application is received within one month;

(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

(3) Where the defect referred to in paragraph 13 -

(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) An 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 13 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 13 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 13 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 this 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 this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its 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.

## **25. Information and evidence**

(1) Subject to sub-paragraph (3), a person who makes an application for a reduction under the authority’s 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 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 or review that person's entitlement to, or continuing entitlement to a reduction under its 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 -

(a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 27 (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 27, 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, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Windrush Compensation Scheme, the National Emergencies Trust or the London Bombings Relief Charitable Fund;

(aa) a Grenfell Tower support payment;

(b) a payment which is disregarded under paragraph 16 of Schedule 6 (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 8(10) of Schedule 1 other than a payment under the Independent Living Fund (2006).

(8) Where an applicant or a person to whom a reduction under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information—

(a) the name and address of the pension fund holder;

(b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

## **26. Withdrawal of application**

(1) 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.

(2) Any notice of withdrawal given in accordance with sub-paragraph (1) has effect when it is received.

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

(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 this authority's 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 scheme (a "relevant change of circumstances") by giving notice to the authority -

(a) on-line; or

(b) in writing;

(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.

## **PART 7 - Decisions by an authority**

### **28. Decision by authority**

The authority must make a decision on an application under its scheme within 14 days of paragraphs 26 and 27 being satisfied, or as soon as reasonably practicable thereafter.

### **29. Notification of decision**

(1) The authority must notify in writing any person affected by a decision made by it under its scheme by means of a Council Tax bill or adjustment notice.

(2) 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 scheme relating to the procedure for making an appeal.

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

(4) For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under its scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (5).

(5) 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 an authority under paragraph 23(3);

## **PART 8 - Award or payment of reduction**

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

(1) Where—

(a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a 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 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 this scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 25(3) or is treated as having been so appointed by virtue of paragraph 25(4), the amount of the reduction may be paid to that person

## **Chapter 2 - Local Scheme Requirements**

## **Part 9 - Classes of person entitled to a reduction under this scheme**

### **31. Classes of person entitled to a reduction under this scheme**

(1) The class of person described in paragraph 32 are in relation to a person who is not a pensioner and are entitled to a reduction under this scheme.

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

(3) The Council has determined that there will be one class of persons who will receive a reduction in accordance with the adopted scheme. The scheme has qualifying criteria.

### **32. Class I**

To be eligible for a reduction the applicant, or their partner, must:

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

(b) have attained the age for qualifying for state pension credit and he, or if he has a partner, his partner is a person on Income Support, on an Income Based Jobseeker's Allowance, or an Income Related Employment and Support Allowance or on Universal Credit;

(c) be liable to pay Council Tax in respect of a dwelling in which he is solely or mainly resident;

(d) not deemed to be absent from the dwelling;

(e) not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;

(f) be somebody in respect of whom a maximum Council Tax Income Discount amount can be calculated;

(g) not have capital and/or savings in excess of £6,000.00;

(h) not have income above the levels specified in the scheme;

(i) be a person in respect of whom a day in which s/he is liable to pay Council Tax falls within a week in respect of which the person's income is within a range of incomes specified within Schedule 1; and

(j) have made a valid application for Council Tax Income Discount.

### **33. Classes of person excluded from this scheme**

The classes of person described in paragraph 11, 12 and 34 are not entitled to a reduction under this scheme.

### **34. Class of person excluded from this scheme: capital limit**

(1) Subject to paragraph 40, capital is to be calculated in accordance with Part 14.

### **35. Class of person excluded from this scheme: students**

The class of person described in this paragraph consists of any student to whom paragraph 62(1) applies.

## **Part 10 - Maximum Council Tax Income Discount**

### **36. Maximum Council Tax Income Discount under this scheme**

(1) Subject to sub-paragraphs (2) to (4), the amount of a person's maximum Council Tax Income Discount in respect of a day is 80 per cent of the amount  $A/B$  where—

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

(b) B is the number of days in that financial year,

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

(3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for Council Tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum Council Tax Income Discount in his case in accordance with sub-paragraphs (1), and sub-paragraphs (2) and (3) if applicable, the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

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

(5) omitted.

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

### **37. Non-dependant contribution**

(1) Subject to the following provisions of this paragraph, the non-dependant contribution, for each non-dependent, in respect of a day referred to in paragraph 47, will equate to £37.00 per calendar month divided by the number of days in that month.

(2) Where in respect of a day -

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

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

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

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

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

(a) blind or treated as blind; or

(b) receiving in respect of himself -

(i) attendance allowance,

(ii) the care component of the disability living allowance,

(iii) the daily living component of personal independence payment, or

(iv) an Armed Forces Independence Payment, or

(v) in receipt of Income Support, Jobseekers Allowance (Income Based) or Employment and Support Allowance (Income Related).

(4) The right to prescribe the amounts of non-dependant contribution conferred by sub-paragraph (1) includes the right by the authority to set the amounts annually to take effect at the beginning of each financial year.

### **PART 11 - Amount of reduction**

#### **38. Amount of reduction under this scheme: Class I**

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

(2) Subject to paragraph 38A, where the person falls within paragraph 32 (class I), that amount is the amount which is the maximum Council Tax Income Discount under paragraph 36 in respect of the day in the applicant's case.

### **38A. Minimum amount of reduction under this scheme**

(1) Where a person is entitled to a reduction under this scheme it shall not be awarded where the amount to which a person would otherwise be entitled is less than £21.66 per month (£5.00 per reduction week).

## **PART 12 - Income and capital – General**

### **39. Calculation of income and capital: applicant's family**

(1) The income and capital of -

- (a) an applicant; and
- (b) any partner of that applicant,

is to be calculated in accordance with the provisions of this Part, Part 13 and Part 14.

(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 40 (income and capital where there is an award of universal credit) applies, where an applicant -

- (a) the applicant must be treated as possessing capital and income belonging to each 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.

### **40. Income and capital where there is an award of universal credit**

(1) In determining the income of an applicant -

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

an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount of the income 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.

(2) The authority may adjust the amount referred to in sub-paragraph (1) to take account of—



(a) income consisting of the amount of the award of universal credit, less:  
(i) the housing costs element,  
(ii) from 1 April 2022, 50% of any Limited Capability for Work-Related Activity element,  
(iii) from 1 April 2022, 100% of any Disabled Child addition and/or Severely Disabled Child addition;

(b) omitted;

(c) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

(3) In determining the capital of an applicant—

(a) who has, or

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

an award of universal credit, the authority must use the calculation or estimate of the 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 13 – Income: persons who do not have an award of universal credit**

### **41. Average earnings of employed earners**

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

over a period immediately preceding the reduction month in which the application is made or treated as made and being a period of -

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

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

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 monthly earnings to be estimated more accurately.

(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 for the period that he has been in that employment and those earnings are likely to represent his average monthly earnings from that employment his average monthly earnings must be estimated by reference to those earnings;

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

(3) Where the amount of an applicant's earnings changes the authority must estimate his average monthly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average monthly 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 45 (earnings of employed earners) and 46 (calculation of net earnings of employed earners).

#### **42. Average earnings of self-employed earners and company directors**

(1) Where the income of an applicant consists of earnings from employment as a self-employed earner and/or a company director his average monthly earnings must be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average monthly 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 of a self-employed earner and/or company director must be calculated in accordance with paragraph 47 (earnings of self-employed earners), 55 (calculation of net profit of self-employed earners) and 56 (calculation of deduction of tax and contributions of self-employed earners).

(3) Subject to paragraphs 47, 55 and 56, where, in any assessment period, a claimant is in gainful self-employment (see regulation 42A) and/or employment as a company director and the claimant's earned income in respect of that assessment period is less than the minimum income floor, the claimant is to be treated as having earned income equal to the minimum income floor.

(4) The "minimum income floor" is the amount that a person of the same age as the claimant would be paid for thirty-five hours work per week at the hourly rate detailed under Regulation 4 of the National Minimum Wage Regulations 2015 (as amended) on 1 January preceding the financial year in which an application is made) minus-

(a) an amount that the Council considers appropriate to take account of any income tax or national insurance contributions for which the person would be liable in respect of the assessment period if they had earned income of that amount.

#### **42A Meaning of "gainful self-employment"**

(1) A claimant is in gainful self-employment for the purposes of regulations 42 where the Council has determined that—

(a) the claimant is carrying on a trade, profession or vocation as their main employment;

(b) their earnings from that trade, profession or vocation are self-employed earnings; and

(c) the trade, profession or vocation is organised, developed, regular and carried on in expectation of profit.

#### **43. Average income other than earnings**

(1) The income of an applicant which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average monthly 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 48 (calculation of income other than earnings).

#### **44. Calculation of income of employed earners**

(1) For the purposes of paragraph 41 (average earnings of employed earners), 43 (average income other than earnings) and 53 (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, the amount of that payment;

(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 42 (average earnings of self-employed earners and company directors) 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. The resulting figure is then to be adjusted in accordance with paragraph 51(4) (calculation of income on a monthly basis).

#### **45. Earnings of employed earners**

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

(a) any bonus or commission;

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

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

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

(e) any payment by way of a retainer;

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

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

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

(g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);

(h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);

(i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes)

(j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;

(k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;

(l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.

(2) Earnings does not include -

(a) subject to sub-paragraph (3), any payment in kind;

(b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;

(c) any occupational pension;

(d) any payment in respect of expenses arising out of the applicant's participation in a service user group.

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

#### **46. Calculation of net earnings of employed earners**

(1) For the purposes of paragraph 41 (average 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:

(i) £43.33 per month (£10.00 per week) where the applicant is a single person, with no dependents residing with them; or

(ii) £65.00 per month (£15.00 per week) where the applicant is part of a couple, with no dependents residing with them; or

(iii) £86.66 per month (£20.00 per week) where the applicant is a lone parent or part of a couple with one dependent residing with them; or

(iv) £86.66 per month (£20.00 per week) where the applicant is a lone parent part of a couple with two or more dependents residing with them.

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

(4) In this 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 41(2)(b) (average 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.

#### **47. Earnings of self-employed earners and company directors**

(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 16 of Schedule 2 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor does it include any sports award.

(3) This 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 scheme to which the applicant would have been entitled had the payment not been made.

(5) There is to be disregarded from an applicant's net earnings:

(i) £43.33 per month (£10.00 per week) where the applicant is a single person, with no dependents residing with them; or

(ii) £65.00 per month (£15.00 per week) where the applicant is part of a couple, with no dependents residing with them; or

(iii) £86.66 per month (£20.00 per week) where the applicant is a lone parent or part of a couple with one dependent residing with them; or

(iv) £86.66 per month (£20.00 per week) where the applicant is a lone parent part of a couple with two or more dependents residing with them.

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

(1) For the purposes of paragraph 43 (average 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 2.

(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 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;

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.

(9) In this paragraph -

“academic year” and “student loan” have the same meanings as in Part 15 (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 45(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.

#### **49. Capital treated as income**

- (1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with Part 14 exceed £6,000, be treated as income.
- (2) Any payment received under an annuity is to be treated as income.
- (3) Any earnings to the extent that they are not a payment of income is to be treated as income.
- (4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.
- (5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

#### **50. Notional income**

- (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under a Council Tax Income 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 32(2)(a) of Schedule 3 (capital disregard) applies which is administered in the way referred to in paragraph 32(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,

(j) working tax credit, or

(k) working tax credit, or

(l) working tax credit, or

(m) any sum to which sub-paragraph (11) applies,

any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.

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

(a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;

(b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in 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 a scheme prescribed in regulation 3 of the Jobseekers Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;

(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 in a service user group.

## **51. Calculation of income on a monthly basis**

(1) Subject to paragraph 54 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a monthly basis -

(a) by estimating the amount which is likely to be his average monthly income in accordance with this Part;

(b) deducting from the sum of sub-paragraph (a) any relevant child care charges to which paragraph 52 (treatment of child care charges) applies from any earnings which form part of the average monthly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that 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 monthly 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)(b) 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.

(4) where an applicant has a weekly income (earned or unearned), his monthly income shall be calculated by multiplying the weekly figure by 52 and dividing the product by 12.

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

(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;

(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 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 2014 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) 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;

(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 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 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 (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 would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);

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

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

(15) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if she is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided that -

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

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

(c) he is entitled to either statutory maternity pay under section 164 of the SSCBA, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

(16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and ends on -

(a) the date that leave ends;

(b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support (if relevant), statutory maternity pay, 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.

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

(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.

### **54. Disregard of changes in tax and contributions etc.**

In calculating the applicant’s income the authority may disregard any legislative change-

- (a) in the basic or other rates of income tax;
  - (b) in the amount of any personal tax relief;
  - (c) in the rates of social security contributions payable under the SSCBA or in the lower earnings limit or upper earnings limit for Class 1 contributions under that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions);
  - (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the SSCBA;
  - (e) in the maximum rate of child tax credit or working tax credit,
- for a period not exceeding 30 reduction weeks beginning with the reduction week immediately following the date from which the change is effective.

#### **55. Calculation of net profit of self-employed earners and company directors**

(1) For the purposes of paragraphs 42 (average earnings of self-employed earners) and 51 (calculation of income on a monthly basis) the earnings of an applicant to be taken into account must be -

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

(b) in the case of a self-employed earner who is a pensioner whose employment is carried on in partnership, his share of the net profit derived from that employment, less -

(i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 68 (deduction of tax and contributions of self-employed earners); and

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

(c) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less -

(i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 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) Omitted.

(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) social security 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.

(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) social security contributions payable under the SSCBA,

calculated in accordance with paragraph 56 (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.

## **56. Calculation of deduction of tax and contributions of self-employed earners and company directors**

(1) The amount to be deducted in respect of income tax under paragraph 55(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 social security contributions under paragraph 55(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of -

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

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

(4) In this paragraph “chargeable income” means -

(a) except where 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 55;

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

## **Part 14 – Capital: persons who do not have an award of universal credit**

### **57. Calculation of capital**

(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.

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

(3) 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.

### **58. Notional capital**

(1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction or increasing the amount of that reduction.

(2) Except in the case of -

(a) a discretionary trust; 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 3; 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 32(2)(a) of Schedule 3 (capital disregards) applies which is administered in the way referred to in paragraph 32(1)(a); or

(f) omitted; 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.

(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 a scheme prescribed in regulation 3 of the Jobseekers Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;

(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.

### **59. Capital jointly held**

Except where an applicant possesses capital which is disregarded under paragraph 58(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.

### **Part 15 - Students - General**

## 60. Interpretation

(1) In this Part -

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

“access funds” means -

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

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

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

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

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

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

“contribution” means-

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

(b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following persons to contribute towards the holder’s expenses -

(i) the holder of the allowance or bursary;

(ii) the holder's parents;

(iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or

(iv) the holder's spouse or civil partner;

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

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

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

"full-time course of study" means a full-time course of study which -

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

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

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

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

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

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

(ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds;

“grant income” means—

(a) any income by way of a grant;

(b) any contribution whether or not it is paid;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

“last day of the course” means—

(a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;

(b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

(a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;

(b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—

(i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or

(ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;

(c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

“periods of experience” means periods of work experience which form part of a sandwich course;

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations 1996;

“sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(10) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009, 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 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.

## **61. Treatment of students**

This scheme has effect in relation to students subject to paragraph 35 (class of person excluded from this scheme: students) and the following provisions of this Part.

**62. Students who are excluded from entitlement to a Council Tax Income Discount under this scheme**

(1) The students who are excluded from entitlement to a reduction under this scheme are—

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

**Part 16 - Student Income**

**63. Calculation of grant income**

(1) The amount of a student's grant, covenant income or loan income to be taken into account shall be the whole of his grant, covenant or loan income. No disregards shall be applied.

(2) Any grant, covenant or loan income shall be calculated at the level actually received or at the level that could be received if applied for.

(3) In calculating the monthly income, the authority shall take the total grant, covenant income or loan income and apportion it equally between the period for which it is paid or for which it could be paid if applied for.

**64. Treatment of payments from access funds**

(1) This paragraph applies to payments from access funds.

(2) A payment from access funds shall be calculated as income.

(3) In calculating the weekly income from access funds, the authority shall take the total access fund payment or any amount that could be paid if applied for and apportion it equally between the period for which it is paid or for which it could be paid if applied for.

**Part 17 - When entitlement begins and change of circumstances**

**65. Date on which entitlement begins**

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

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

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

(1) Except in cases where paragraph 54 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and paragraph 104, a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the date on which the change actually occurs.

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

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

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

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

## **67. Date on which an advantageous change of circumstances is to take effect**

The date of notification of the change of circumstances is treated as the date on which the change of circumstances occurred.

## **68. Late notification of a change of circumstances**

(1) A longer period of time may be allowed for the notification of an advantageous change of circumstances where the authority is satisfied -

(a) that as a result of exceptional circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring; and

(b) the application for a late change of circumstances is made within 13 months of the on which the change actually occurred

(2) In deciding whether it is reasonable to grant the application, the authority shall have regard to the principle that the greater the amount of time that has elapsed between the date that is one month after the change of circumstances occurred and the date the change of circumstances is notified to the authority, the more compelling should be the special circumstances on which the application is based

(3) In determining whether it is reasonable to grant an application, no account shall be taken that the applicant was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by this scheme)

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

(1) Where an applicant—

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

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

the application is to be treated as made on the date determined in accordance with sub-paragraph (2) and, where applicable, sub-paragraph (3).

(2) That date is the latest of—

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

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

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

(3) Under the rules of this scheme, no application is to be treated as made on a date prior to 1 April 2021.

## **Part 18 - Changes in the amount of reduction**

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

Where, due to a change of circumstances or other correction, the amount of reduction that an applicant is entitled to is adjusted, the authority will issue a revised Demand Notice and adjust payments of council tax liability in accordance with regulation 24 of the Council Tax (Administration & Enforcement) Regulations 1992.

## **Part 19 - Other Matters**

### **71. Transitional Provision - procedural matters**

(1) Any person who, on the date this scheme comes into effect, has an existing reduction under the authority's previous scheme, will be required to make a new application for Council Tax Income Discount.

(2) Any person who, before the date this scheme comes into effect, has made an application for a reduction under the previous scheme, which on the date this scheme comes into effect has not been decided, will be required to make a new application for Council Tax Income Discount.

The date this scheme comes into effect is the date in accordance with paragraph 1

**Schedule 1 – Calculation of the amount of reduction in accordance with the Council Tax Income Discount scheme**

(1) The authority’s Council Tax Income Discount scheme for persons who are not pensioners, from 1 April 2024, shall be calculated on the basis of the following banded income discount scheme:

Council Tax reduction percentage	Household Type & monthly income				
	Passported	Single, no children	Couple, no children	Lone parent/couple with one child	Lone parent/couple with two or more children
Band A – 80%	Relevant Benefit	£0.00 - £394.00	£0.00 - £735.00	£0.00 – £961.00	£0.00 - £1,247.00
Band B – 65%	N/A	£394.01 - £603.00	£735.01 - £967.00	£961.01 - £1,168.00	£1,247.01 - £1,499.00
Band C – 50%	N/A	£603.01 - £710.00	£967.01 - £1,152.00	£1,168.01 - £1,295.00	£1,499.01 - £1,839.00
Band D – 40%	N/A	£710.01 - £1,444.00	£1,152.01 - £1,823.00	£1,295.01 - £2,213.00	£1,839.01 - £3,592.00

(2) A ‘passported’ case is defined under this scheme as any applicant who is in receipt of any of the following:

- (a) Income Support; or
- (b) Income Based Jobseekers Allowance; or
- (c) Income related Employment and Support Allowance.

(3) The amount of discount to be granted is to be based on the following factors:

- (a) the maximum Council Tax reduction as defined within Section 36 of this scheme;
- (b) The Council Tax family as defined within Section 5 of this scheme; and
- (c) The income and capital of the applicant as defined within Sections 39 – 59 of this scheme.

(4) For the sake of clarity all income figures shown within the table above are monthly in accordance with the scheme requirements.

(5) Discount bands vary depending on both monthly income and the household (family as defined within this scheme).

(6) Any applicant whose capital is greater than £6,000 shall not be entitled to any Council Tax Income Discount whatsoever.

**SCHEDULE 2 - Sums disregarded in the calculation of income other than earnings**

(1) Any amount paid by way of tax on income which is to be taken into account under paragraph 48 (calculation of income other than earnings).

(2) 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 50(5) (notional income).

(3) 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.

(4) 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.

(5) 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.

(6) Any disability living allowance or personal independence payment, or an Armed Forces Independence Payment.

(7) 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.

(8) Any attendance allowance.

(9) Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

(10) (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.

(11) 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.



(12) Any payment made to the applicant by a child or young person or a non-dependant.

(13) 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.

(14) 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.

(15) (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 71 of the Adoption and Children (Scotland) Act 2007 (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.

(16) 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).

(17) 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).

(18) (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.

(19) (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

(a) on a loan which is secured on the dwelling which the applicant occupies as his home; or

(b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974) or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

(a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b); and

(b) meet any amount due by way of premiums on—

(i) that policy; or

(ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

(20) Any -

(a) social fund payment made pursuant to Part 8 of the SSCBA (the Social Fund);

(21) Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

(22) (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.

(23) Any housing benefit.

(24) 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.

(25) 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).

(26) 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).

(27) (1) £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

(28) (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In sub-paragraph (1)-

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under-

(a) The Child Support Act 1991(a);

(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 subparagraph (d) of that definition.

(29) (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.

(30) 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.

(31) 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.

(32) (1) Any payment which is—

(a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

(33) Any Council Tax Income Discount to which the applicant is entitled.

(34) Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.

(35) (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.

(36) Any payment of child benefit.

(37) Any bereavement support payment in respect of the rate set out in regulations 3(2) or (5) of the Bereavement Support Payment Regulations 2017.

(38) Any payments made by the "London Emergencies Trust" means the company of that name (number 09928465) incorporated on 23 December 2015 and the registered charity of that name (number 1172307) established on 28 March 2017 or the "We Love Manchester Fund" means the registered charity of that name (number 1173260) established on 30 May 2017.

(39) Any payment made under the Energy Rebate Scheme 2022.

### **SCHEDULE 3 - Capital disregards**

(1) 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 39 (calculation of income and capital of members of applicant's family), only one dwelling shall be disregarded under this paragraph.

(2) Where an applicant is on income support or an income-related employment and support allowance or jobseekers allowance (income based), the whole of his capital.

(3) 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.

(4) (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the applicant where—

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

(b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the application for a reduction under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(5) (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 6, 7 or 8 of Schedule 2;

(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 scheme, for the remainder of that period if that is a longer period.

(3) For the purposes of sub-paragraph (2), "the period of an award of a reduction under this scheme" means—

(a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—

(i) is the person who received the relevant sum; or

(ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

(6) 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.

(7) Any personal possessions, except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to a reduction under this scheme or to increase the amount of that reduction.

(8) The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

(9) 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.

(10) (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).

(11) The value of the right to receive any income under a life interest or from a life rent.

(12) The surrender value of any policy of life insurance.

(13) Any payment made by a local authority in accordance with section 17, 22A – 22F, 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).

(14) (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 22A – 22F 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.

(15) Any -

(a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund);

(16) 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.

(17) Any capital which by virtue of paragraph 49 (capital treated as income) is to be treated as income.

(18) (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.

(19) (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.

(20) Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

(21) The value of the right to receive an occupational or personal pension.

(22) The value of any funds held under a personal pension scheme.

(23) 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).

(24) 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.

(25) 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.

(26) Any arrears of supplementary pension which is disregarded under paragraph 30 of Schedule 2 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 31 or 32 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

(27) 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.

(28) Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

(29) 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.

(30) 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.

(31) 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.

(32) (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.

(33) Any payment to the applicant as holder of the Victoria Cross or George Cross.

(34) (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.

(35) 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.

(36) (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.

(37) Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

(38) Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

(39) Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments).

(40) Any payment made under the Energy Rebate Scheme 2022.