

Council – Supplementary agenda No.1

A meeting of the Council will be held on:

Date: 22 January 2015

Time: 7.00pm

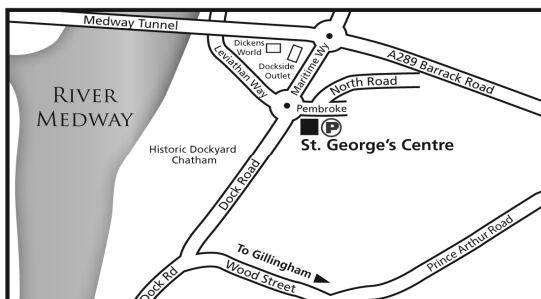
Venue: St George's Centre, Pembroke Road, Chatham Maritime, Chatham ME4 4UH

Items

- 12 Chatham Dockyard and its Defences Planning Policy Document (Pages 3 - 104)**
Appendix 1 is attached.
- 13 Localising Support for Council Tax (Pages 105 - 366)**
Appendix 4 is attached.

For further information please contact Julie Keith, Head of Democratic Services on Telephone: 01634 332760 or Email: democratic.services@medway.gov.uk

Date: 14 January 2015



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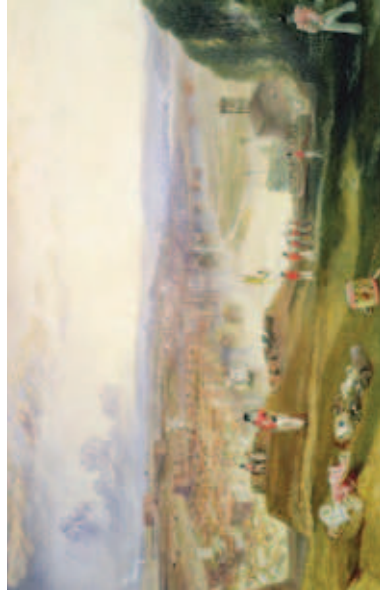
A summary of this information can be made available in other formats from **01634 333333**

If you have any questions about this meeting and you want to speak to someone in your own language please ring **01634 335577**

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Chatham Dockyard and its Defences Planning Policy Document

Adopted December 2014



Agenda Item 12



Foreword



Foreword by the Leader of Medway Council, Cllr Rodney Chambers OBE

Medway is rightly proud of its world class heritage. The international significance of Chatham Dockyard and its Defences is key to Medway Council's ambition to transform Medway, linking its world class future with its world class past.

For almost thirty years now, The Historic Dockyard has been an exemplar of regeneration excellence in a heritage setting, and continues to provide an inspirational benchmark of the fusion of heritage and regeneration.

In more recent days, the Great Lines Heritage Park is one project that unites heritage and regeneration to the benefit of local people and visitors. It is an important signal of our commitment to transforming

Medway in a sensitive and appropriate manner, and to embracing the responsibilities that come with the recognition that Medway is home to an internationally significant heritage environment. Such projects have seen our understanding of the importance of Chatham's heritage increase, and have seen public pride and visitor interest in our world class built and natural environment grow.

As Leader of Medway Council I am proud to call Medway home particularly because the balance of heritage and regeneration makes it an inspirational place to live, work and visit. This planning policy document sets out plans to transform what needs to be transformed, and to preserve - and celebrate - what deserves to be preserved. It ensures that Medway will continue to respond effectively to the challenge of acting as custodian of a unique heritage environment – a challenge that we are delighted to accept.

Front cover images: Aerial photography by Bryan Gulliver: bryan@thearco.co.uk, 01634 841069; Chatham viewed from the heights of Fort Amherst, 1832. JMW Turner © Tate London, 2013; View of Chatham from Sun Pier circa 1864 © National Maritime Museum; The Burning of the English Fleet near Chatham, June 1667 - an oil painting by Willem Schellinks © Collection Rijksmuseum, Amsterdam.

Chatham Dockyard and its Defences Planning Policy Document

Foreword



Foreword by Chief Executive of Chatham Historic Dockyard Trust, Bill Ferris OBE

Medway, “the place”, is both new and old. Born at the end of the twentieth century from local government reform, but founded on the great history and cultural identity of the towns that make it.

At its very heart are Chatham Dockyard and its Defences: the world’s most complete example of a defended dockyard of the age of sail, and now a thriving heritage-led cultural site. Its strategy of preserving its buildings by finding new, respectful and appropriate uses sets a nationally important example of how careful planning and management can ensure that internationally significant heritage assets are as relevant to the future economic and cultural wellbeing of the place as they were in the past.

Chatham is, itself, re-emerging as Medway the place’s centre. Enjoying unprecedented investment, it offers an opportunity to become the modern heart of Medway.

This planning policy document is the culmination of a great partnership effort by those actively involved in the preservation of Chatham’s heritage and more modern regeneration who have come together with Medway Council to ensure that respect for the past and aspiration for the future are embedded at the heart of making Medway an excellent and inspirational place to live, work and visit.

The vision of the partnership is that Medway is a modern place with an identity and vibrancy that reflects its heritage. This planning policy document is a welcome tool for striking that exciting balance.



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Executive Summary

Chatham Dockyard and its Defences is an outstanding example of a complete industrial and military complex dating from the heyday of the age of sail (1700 to 1820) and the early period of the age of steam (1820 to 1865).

Experts have compiled a list of key 'attributes' which are the specific elements of the site which display international significance. These attributes need to be protected, conserved and enhanced especially in relation to any proposed new development coming forward through the regeneration of the area. The ability to balance these two elements will be key to the successful future of the area as a whole.

This document provides planning guidance for Chatham Dockyard and its Defences, and its environs, to ensure that the authenticity of the site is not compromised by future development.

The first part of this planning policy document provides an outline of existing planning policy guidance, drawing together in one place the various existing policy documents which relate to the site. It also references key management plans for significant components of the site. These contain detailed advice about how individual heritage assets or groups thereof will be managed. The policy documents, and their advice in relation to Chatham Dockyard and its Defences, are set out in the table overleaf.

The second part of the document describes how some of the attributes of the site are represented in key views and how these views should be managed to ensure that international significance is not harmed.

The document then sets out the methodology that will be used to assess future development and regeneration proposals to protect the integrity of Chatham's world class heritage.

Policy Document	Summary of Advice
National Planning Policy Framework 2012	It is a core planning principle to conserve heritage assets in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.
Scheduled Monuments: Identifying, protecting, conserving and investigating nationally important archaeological sites under the Ancient Monuments and Archaeological Areas Act 1979	This document sets out how Government (via the Department for Culture, Media and Sport) will exercise its duties for Scheduled Monuments.
Medway Local Plan 2003	Sets out the vision for the Medway area as a whole and the policies intended to enable this to be achieved.
Medway Waterfront Renaissance Strategy 2004	Provides an overarching vision for the Medway Waterfront area, with suggestions for appropriate uses.
Star Hill to Sun Pier Planning and Design Strategy 2004	Sets out general design guides for the development of this Conservation Area within the environs of Chatham Dockyard and its Defences and provides specific advice for 15 opportunity sites.
Rochester Riverside Development Brief 2014	Establishes principles and requirements for the regeneration of this large brownfield site, adjacent to Chatham Dockyard and its Defences. Development here is visible in key views out of the site.
The Medway Regeneration Framework 2006-2016	Provides a long term vision to transform Medway into a city of learning, culture, tourism and enterprise by 2016. Recognises the role of Chatham Dockyard and its Defences in relation to tourism and heritage.
A Building Height Policy for Medway 2006	Provides guidance to ensure that new tall buildings are of the highest quality and in the most appropriate locations. Establishes principles and methodology for assessing carefully designed and placed higher buildings, which may be justified within certain, limited areas of Chatham Dockyard and its Defences.
Chatham 21 2010	A detailed masterplan for the High Street/Best Street area of Chatham, which falls within the environs of Chatham Dockyard and its Defences.
Gun Wharf Masterplan 2010	A masterplan for the future regeneration of the Gun Wharf area, within the Chatham Dockyard and its Defences. Proposes development and demolition that would improve and enhance the area.
The Interface Land, Chatham 2010	Provides specific redevelopment guidance for the Interface Land, which falls centrally within Chatham Dockyard and its Defences. Following a Building Heights Assessment suggests locations appropriate for tall buildings.
Amherst Hill Design Brief 2010	Provides guidelines for the development of a small site that was allocated for housing in Medway's Local Plan. The site is in a sensitive and visible hillside position immediately adjacent to Fort Amherst.
Brompton Lines Conservation Area Appraisal 2006	Appraises the significance of the main defences of the dockyard along with the barracks and the associated civilian settlement of Brompton. Lays down guidelines and policies for the preservation and enhancement of the area.

Upnor Conservation Area Appraisal 2004	Appraises the significance of Upnor Castle, its associated village and the adjacent ordnance yard. Lays down guidelines and policies for the preservation and enhancement of the area.
The Historic Dockyard Chatham - Conservation Management Plan' 2011	Provides detail relating to the protected status of the site and how the area can be preserved and enhanced through re-use. Two sites considered appropriate for new build are outlined.
Great Lines Heritage Park Management and Maintenance Plan 2012	Places specific emphasis on the need to avoid tree planting on the open Field of Fire, and on the removal of encroaching vegetation to restore and preserve the site's historic significance and lines of fire.
Chatham Centre and Waterfront Development Brief 2008	Specifically references the green backdrop of the defences as a unique feature that forms a part of Chatham's setting. Notes that building heights will be controlled so as to retain this setting and key views.
The Pentagon Centre Development Brief 2005	Draws attention to key views and vistas, and highlights the value of the green backdrop of the defences.

¹The Historic Dockyard Chatham - Conservation Management Plan is used by Chatham Historic Dockyard Trust to support property management and restoration within the dockyard. It has not been endorsed as a planning document but is nevertheless a useful reference source.



Part I - Introduction

Chatham Dockyard and its Defences is an outstanding example of a complete industrial and military complex dating from the heyday of the age of sail (1700 to 1820) and the early period of the age of steam (1820 to 1865). The collection of buildings, structures and the spatial layout of the dockyard and its defences have remained substantially intact, and as such, collectively exhibit a superlative example of such a site, in marked contrast to other leading dockyards of the same period.

The proposed site is outlined in red overleaf and includes:

- The River Medway – the determining factor on the location of the dockyard, and on the physical and historical development of the area;
- Chatham Dockyard – incorporating the site of the 17th century dockyard and the 18th and early 19th century range of facilities necessary to build, repair, maintain and equip ships of the fleet;
- Brompton Barracks – constructed to accommodate troops charged with defending the dockyard, first the artillery and then the engineers;
- Brompton Village – the settlement that was founded to serve the needs of the naval, military and civilian personnel associated with the dockyard;
- Chatham Lines – the continuous permanent artillery fortifications which were constructed to defend the dockyard from attack by land;
- Kitchener Barracks – constructed to provide accommodation for the soldiers defending the Chatham Lines;
- Old Gun Wharf – the site of the 16th century dockyard and then the major ordnance depot for the navy and army on the river Medway, including the site of the Royal Marines barracks;
- Upnor Castle, barracks and ordnance depot – the first defence for the dockyard and then later facilities for the storage of gun powder for the navy and army.

The blue line indicates the environs of Chatham Dockyard and its Defences identified to protect the visual setting of the site. Development proposals within it will be considered for their effect upon the site's international significance.

Experts have compiled a list of attributes which are the specific elements of the site which display its international significance. This list has been agreed by the Chatham Dockyard and its Defences Heritage Co-ordination Group. The attribute list for Chatham Dockyard and its Defences is attached as Appendix I. In summary these attributes include:

- the overall survival and completeness of the site;
- the vast range of physical structures and buildings throughout the site which illustrate manufacturing and defensive functions;
- the important inter-relationships between site components;
- the architectural, technological, and engineering innovation showcased throughout;
- the site's geographical location.

These attributes need to be protected, conserved and enhanced, especially in relation to any proposed new development coming forward through the regeneration of the area. Regeneration is needed for strong economic and social reasons and will provide opportunities to enhance and reveal the international significance of the site. The ability to balance these conservation and regeneration needs will be key to the successful future of the area as a whole.

Our Approach

It is imperative that as a planning authority Medway Council provides an approach that aids developers in

formulating their development proposals as part of the future regeneration of the area, without impacting on the international significance of Chatham Dockyard and its Defences. Chatham Dockyard and its Defences is considered by Medway Council to be an integral part of the regeneration of the area. Internationally significant heritage is not only a great honour for the area, with benefits for civic pride, but will deliver economic benefits too, and assist with securing enhanced regeneration outcomes. However the balance between protection of significance and regeneration is key.

In order to achieve this balance, the Council took a two-fold approach. Firstly the existing relevant planning policy guidance, which relates to Chatham Dockyard and its Defences and its environs, has been drawn together in one place, to provide clarity on the policies relating to the site. Secondly a means of assessing the impact of future development proposals on the site has been established, in order that Medway Council has the ability to protect the site's international significance.

In addition, Medway Council supports a further means of assessing future regeneration proposals against their impact on the site.

The National Planning Policy Framework requires local planning authorities to have design review arrangements in place. In Medway, this service is provided by the long established South East Regional Design Panel (SERDP). The Council expects all major development proposals within Chatham Dockyard and its Defences and its environs to be reviewed by this panel.

Part I of this document deals with existing planning policy guidance, followed by an outline of the methodology that will be used to assess future development proposals. The specific detail of this is covered in Parts II and III of this document.

Genesis of this Document

In 1999, the Department for Culture, Media and Sport added Chatham Dockyard and its Defences to its Tentative List of World Heritage Sites, recognising its international significance as the world's best preserved example of a defended dockyard from the age of sail and early age of steam.

This was the catalyst for landowners and stakeholders to come together to develop a shared vision for the future preservation and management of the site, and the promotion of its outstanding international significance.

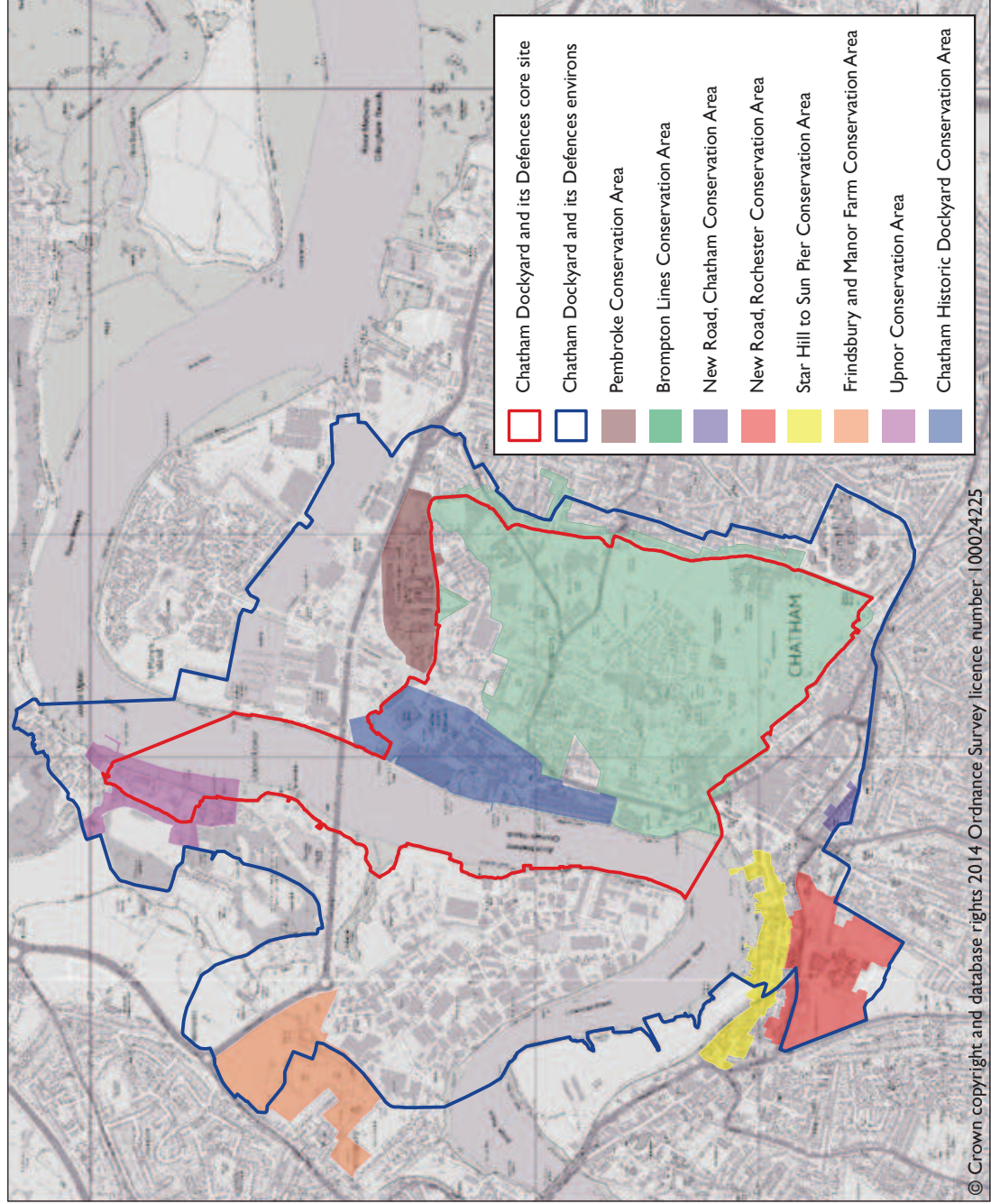
As part of this work, the group – with the support of external experts – researched and analysed in detail which specific elements of the site best convey this international significance, and how this should best be preserved.

Whilst the group of landowners and stakeholders (including and supported by Medway Council) decided in 2014 no longer to pursue World Heritage Site status, the international significance of Chatham Dockyard and its Defences has not been called in to question, and the importance of its preservation for future generations remains paramount.

Future Status of this Document

The document has been prepared to have the status of, and the same planning weight as, a Supplementary Planning Document (SPD). It has been drafted with significant stakeholder involvement; was subject to public consultation in accordance with the Medway Statement of Community Involvement (SCI) and it conforms with the National Planning Policy Framework and the development plan for Medway.

It is not believed that the guidance in existing planning policy documents contradicts the guidance in this document. Where conflict may be perceived, the more detailed guidance in this document is to be followed.



National Planning Policy Framework

The National Planning Policy Framework (NPPF), adopted in 2012, sets out the Government's planning policies for England and how these are applied.

The Framework contains a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and no other planning concern is given a greater sense of importance. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

The aim should be to achieve sustainable development, seeking economic, social and environmental gains jointly and simultaneously through the planning system. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. Planning authorities should seek to improve proposals so that they avoid or minimise harm to the significance of designated heritage assets, and should look for opportunities within Conservation Areas to enhance or better reveal their significance.

If a proposal cannot be amended to avoid all harm, and if the proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing optimum viable use. Where a proposed development would lead to substantial harm to

or total loss of significance, local planning authorities should refuse consent, unless it can be demonstrated that the

substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Substantial harm to or loss of a grade II Listed Building, park or garden should be exceptional. Substantial harm to or loss of grade I and II* Listed Buildings, grade I and II* registered parks and gardens, and Scheduled Monuments, should be wholly exceptional.

For development in a Conservation Area or affecting the setting of a Listed Building the Planning (Listed Buildings and Conservation Areas) Act 1990 creates statutory requirements for planning authorities:

- To pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area
- To have special regard to the desirability of preserving the setting of a Listed Building.

Scheduled Monuments: Identifying, protecting, conserving and investigating nationally important archaeological sites under the Ancient Monuments and Archaeological Areas Act 1979

This document sets out how Government (via the Department for Culture, Media and Sport) will exercise its duties for Scheduled Monuments.

It notes that archaeological heritage is a finite, irreplaceable and fragile resource as well as a valuable resource for education, leisure, tourism and regeneration. The document sets out the process of obtaining consent from the Secretary of State to undertake works to a Scheduled Monument, separately from the statutory planning process.

Medway Local Plan 2003

The Development Plan for Medway currently comprises 'saved policies' of the Medway Local Plan 2003. A new Medway Local Plan is currently being developed and will replace the 'saved policies' in due course.

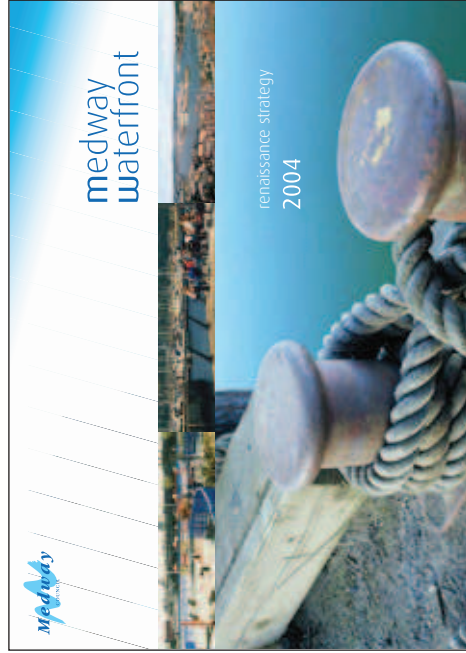
In 2007 several policies of the Medway Local Plan 2003 were saved until a new Local Plan is adopted, so that they could be retained for use. The 'saved policies' of the Medway Local Plan 2003 included: development allocations for housing and employment, and policies covering design, transport, environment, and heritage.

Saved policies from the Medway Local Plan (2003) that are specifically relevant to this site include:

S9	Chatham Historic Dockyard Conservation Areas
BNEI2	Demolition in Conservation Areas
BNEI3	Development in Conservation Areas
BNEI4	Demolition of Listed Buildings
BNEI6	Alterations to Listed Buildings
BNEI7	Setting of Listed Buildings
BNEI8	Scheduled Ancient Monuments
BNE20	Archaeological Sites
BNE21	Existing Tourist Facilities
ED11	New Tourist Facilities
ED12	

The new Medway Local Plan will replace the 'saved policies' of the Medway Local Plan 2003. Specifically it will set a new housing target and development site allocations for the plan period 2011-35, and produce new heritage policies for Medway. These will be in line with national policy on heritage as set out in legislation, the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

The timescale for producing the new Local Plan is set out in the Local Development Scheme (LDS). The present LDS was adopted in the summer of 2014, and outlines that the Council plans to adopt the new Local Plan in summer 2017.



The Medway Waterfront Renaissance Strategy was adopted in 2004 and although now ten years old provides a useful overarching vision for the Medway Waterfront area, with many of its aims and goals still highly relevant. 'The Waterfront' extends from the M2 motorway bridge in the west encompassing Strood, Rochester, The Historic Dockyard and Fort Amherst, Chatham Maritime and the Universities, to Gillingham Waterfront in the east, with Chatham centre and waterfront at its heart. This area is seen as the focus for Medway's regeneration activity, with over 900 hectares of brownfield land across 14 sites, and spanning 11 kilometres of the River Medway.

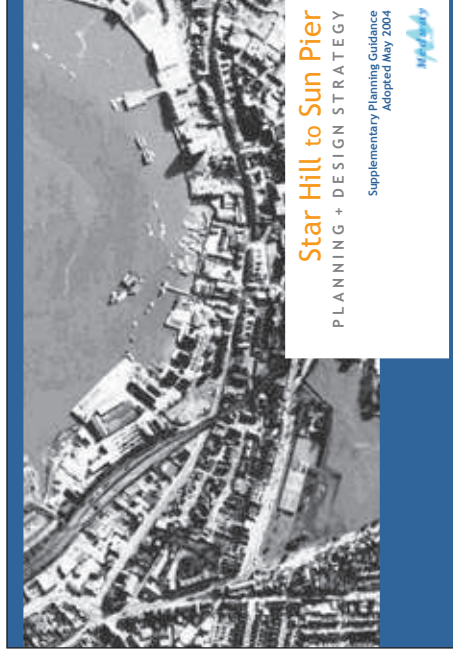
Key to this document and Chatham Dockyard and its Defences is the section relating to the "university and college quarter", which includes Upper and Lower Upnor, St Mary's Island, Chatham Maritime, Brompton, Fort Amherst and The Chatham Lines, and The Historic Dockyard.

The document suggests appropriate uses for each element of this 'university and college quarter' along with aspirations and opportunities for each element. This section of the document has been attached as Appendix 2.

Proposed uses include tourism and leisure facilities, housing, commercial and office uses, education facilities and improved access links throughout the site. All proposals carry with them the aspiration for this area:

- to be a high quality development,
- to be well integrated,
- to increase the appreciation of the area's historical and cultural significance,
- to increase visitor numbers,
- to establish design and conversation principles for the use and re-use of existing buildings and artefacts, and
- to preserve the distinct character of the area.

It is considered that none of the aspirations or proposed uses would, in themselves, have an adverse impact on Chatham Dockyard and its Defences, but all must be assessed against the methodology outlined later in this document to ensure that the international significance of the site is not compromised.



The Star Hill to Sun Pier Planning and Design Strategy was adopted in May 2004 with the aim of providing guidelines and policies for the long-term management and development of the area. The Star Hill to Sun Pier area falls within the environs of Chatham Dockyard and its Defences. Sun Pier provides one of the viewing locations outlined in Part II of this document, and lies within the viewing cone of Key View 5 from Fort Pitt Hill across to the site.

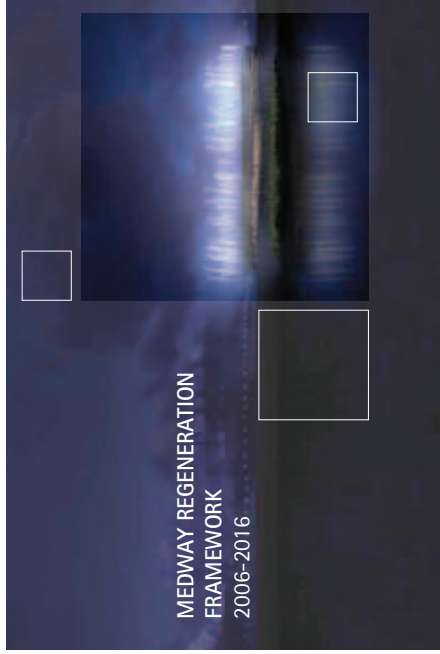
The Star Hill to Sun Pier area is currently a run down and undervalued riverside hinterland between the commercial cores of Rochester and Chatham. Despite this it is a Conservation Area of real historic importance as a part of the civilian industrial and commercial infrastructure associated with the dockyard. The document provides a vision for the renewal of the area based primarily on restoring and bringing back into use historic building stock, and providing small scale modern infill development. A key aim is to open up riverside alleyways for public access and establish a riverside walk.

In general terms improvements to this area can only benefit Chatham Dockyard and its Defences by enhancing its

environs. New development is proposed at heights that are comparable to the existing surrounding development, and therefore would not have an adverse impact on the key views noted above. The only scope for a tall building proposed within the SPG is at the High Street/Star Hill junction at the western end of the development area, which would not affect the key views.

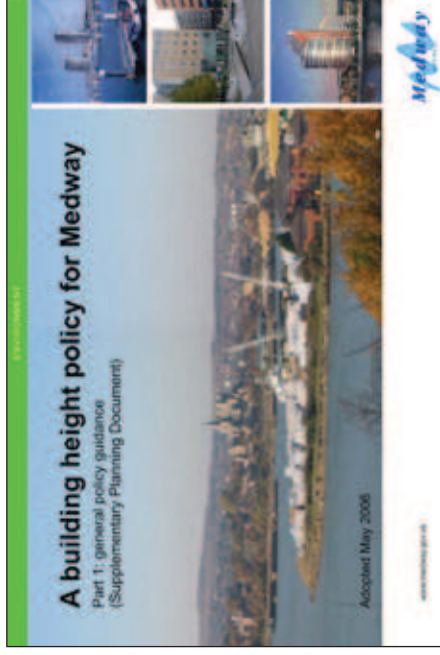


The Rochester Riverside Development Brief was adopted in September 2014 and establishes principles and requirements for the future development of this large brownfield site, which lies on the River Medway. Rochester Riverside falls outside the Chatham Dockyard and its Defences site, but the brief deals with views and vistas, noting a key vista across the River Medway between Rochester Castle and Cathedral and Fort Amherst. The Development Brief states that such important views should be protected and requires a comprehensive visual analysis of any proposal coming forward.



The Medway Regeneration Framework seeks to provide a long term vision to transform Medway into a city of learning, culture, tourism and enterprise. It seeks to guide co-ordinated and complimentary development across Chatham Centre and Waterfront, Rochester Riverside, and the town centres of Strood, Rochester, Gillingham and Rainham.

The key element in relation to Chatham Dockyard and its Defences is its focus on tourism and heritage, recognising Chatham Dockyard and its Defences as part of a cluster of fascinating heritage attractions within the Medway area, alongside Rochester Castle and Cathedral.



A Building Height Policy for Medway was adopted in 2006 to ensure that new tall buildings within Medway are of the highest quality, are in the most appropriate locations, and do not repeat the mistakes of previous eras.

The document is split into two parts – Part 1 provides general location and design policy criteria for formulating and assessing tall building proposals, relevant across the whole Medway area. Part 2 identifies locations where tall buildings are and are not appropriate within the urban area broadly defined by the Medway Waterfront Renaissance Strategy. An appendix to part 2 contains view management policies for thirteen strategic landscape views. These views are generally from public spaces, and define much of Medway’s landscape and townscape character.

The document sets out a definition of a tall building as one that is six storeys or 20 metres in height – whichever is lower (as measured from natural ground level). In such cases the application of the Building Height Policy guidance would be triggered. However it goes on to state that in Conservation Areas or other sensitive locations the Council may choose to apply the Building Height Policy guidance to proposals that are lower than six storeys.

Part I of the document is based on the CABE/ English Heritage document 'Guidance on Tall Buildings', 2003. It provides general location and design policy criteria for formulating and assessing tall building proposals, relevant across the whole Medway area. It includes appendices that set out how the Visual Impact Assessments should be undertaken. (It should be noted that Appendix 3 of this current document provides information which supersedes Appendix B of the Building Height Policy as it relates to updated guidance on how such Accurate Visual Representations should be produced.)

Chatham Dockyard and its Defences is referenced in part 2 as follows:

The University and College Quarter (as defined in the Medway Waterfront Renaissance Strategy) is covered in paragraphs 3.7 – 3.14. Huge emphasis is made within this document on the importance of the significance and character of Chatham Dockyard and its Defences.

Paragraph 3.8 states that "...the historic importance of the area (Brompton, Fort Amherst and the Chatham Lines) as a surviving military landscape and its further importance as a backdrop to the Dockyard means that higher buildings will not normally be appropriate."

When referring to the Interface Land in paragraph 3.10 it suggests that there may be justification for "...carefully designed and placed higher buildings" to reinforce a new leisure and tourism role. However, tall buildings are not considered appropriate within the core area of the dockyard.

At Chatham Maritime, the existence of the reused former naval workshop of the Dockside Outlet Centre, the leisure attraction of Dickens World and The Quays result in a limited opportunity to add to this composition with further tall buildings (paragraph 3.13).

The Upnors, it states in paragraph 3.14, would not be suitable for any high buildings.

An appendix to part 2 lists thirteen strategic views within the Medway Waterfront Area together with specific management strategies to manage change and protect what is significant within each view (a summary of the views analysed within the Building Height Policy that are relevant to Chatham Dockyard and its Defences is in Appendix 5).

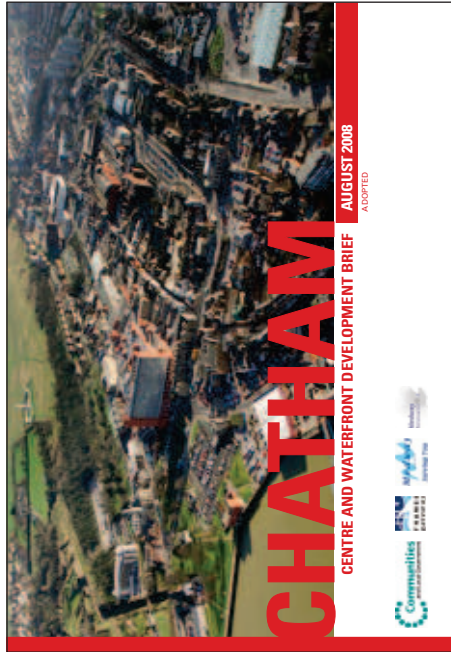
The Building Height Policy sets out in detail the planning application information requirements which will allow a accurate review of the potential impacts of tall building proposals in relation to Chatham Dockyard and its Defences and the key views covered in part II of this document. Even where tall buildings may be considered appropriate, the onus is placed on the developers and architects to prove their acceptability.



Chatham 21 is a detailed masterplan for the High Street/ Best Street area of Chatham town centre, and was adopted in May 2010. The study area for Chatham 21 is within the environs of Chatham Dockyard and its Defences.

The masterplan gives detailed guidance aimed at creating an attractive town centre, focusing on townscape quality, active frontages, green space and public space provision, pedestrian links within the town and between the town centre and the waterfront, and landmarks and viewing corridors. An overarching framework with key aspirations for the town is set out in the document.

The fringe of the Chatham 21 area is within Key View 6 (Sun Pier). The document makes regular reference to the importance of the heritage context for the masterplan area, and notes that A Building Height Policy must be considered as part of any proposals.



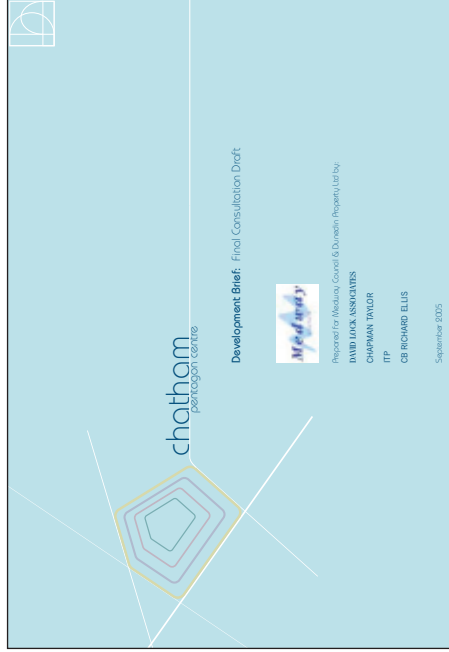
The Chatham Centre and Waterfront Development Brief covers three areas within the environs of Chatham Dockyard and its Defences - the Waterfront, Station Gateway and the Brook (note: the Waterfront Area is the same as that covered in the subsequent and more detailed Gun Wharf Masterplan).

The objectives of the Development Brief are to make Chatham Centre a 'destination of choice', to achieve social and economic regeneration, to create distinctive, dynamic and vibrant urban neighbourhoods with a wide range of new housing, and to create a transformed place with inviting cultural, retail and leisure facilities. A further objective, that of providing a new bus station, has now been implemented.

The brief specifically references the 'green backdrop' of the defences as a unique feature that forms a part of Chatham's setting. Building heights are to be controlled so as to retain this setting and to retain key views. The reinstatement of the defences (the Barrier Ditch) is a key part of the waterfront proposals.

Collectively the Chatham Centre and Waterfront Development Brief, the Gun Wharf Masterplan, Chatham

21 and the Pentagon Development Brief cover the whole of central Chatham.



The Pentagon Centre Development Brief covers the refurbishment and extension of the Pentagon Shopping Centre in Chatham town centre. It is predicated on expanding retail space into the attached 1970s multi-storey bus station, and parts of the surrounding multi-storey car park. Replacing the run-down 1970s architecture with high quality modern architecture is a priority, as is improving pedestrian circulation through the Centre and surrounding streets. The brief draws attention to key views and vistas, and the green backdrop of the defences.



The Gun Wharf Masterplan was adopted in September 2010 and includes a small section of Chatham Dockyard and its Defences, along the River Medway. It includes the Riverside One Council Offices, Riverside surface car park, Chatham Library and The Command House pub (the former Storekeeper's House), which collectively have been called 'The Ordnance Site', and Medway Council's headquarters, a large surface car park for Council staff, St Mary's Church and the Dock Road petrol filling station, collectively known as 'The Civic Quarter'.

The brief covers the weaknesses and constraints of the area, and its strengths and opportunities, before providing a masterplan for both The Ordnance Site and The Civic Quarter. The overall vision of the Gun Wharf Masterplan is identified as

"Gun Wharf will be an attractive civic and cultural quarter in Chatham, contributing to a wider Medway regeneration. New development will take advantage of the site's location adjacent to the waterfront and unique heritage assets to create an exciting and attractive destination for Chatham."

The proposed development outlined in the masterplan

would result in new buildings falling within Key View 5 (Fort Pitt Hill), and Key View 6 (Sun Pier) covered in Part II of this document. The masterplan proposes buildings that would respect the scale and importance of the existing buildings, suggests enhancements to pedestrian links, river frontages and public open space, the re-use of St Mary's Church and the removal of buildings such as Riverside One and the petrol filling station, which currently detract from the area. Therefore, proposals are likely to have a positive impact on Chatham Dockyard and its Defences.



The Interface Land at the Historic Dockyard is the subject of a Supplementary Planning Document (SPD), which was adopted by Medway Council in October 2010. The Interface Land sits between the earlier Georgian Dockyard to the south and the large nineteenth century extension to the north and is historically associated with the age of sail. The Interface Land is located at the arrival gateway for the Historic Dockyard and therefore holds an extremely prominent position within Chatham Dockyard and its Defences.

The vision is to create a sustainable development linking Chatham Maritime (the location of the former stream

navy, now largely regenerated as a mixed use leisure and residential area) with the dockyard, whilst reflecting the heritage sensitivities of the area.

The Interface Land SPD provides a strategic framework for the site, makes reference to the international heritage values of the site, and looks at the development constraints, which it sets out under the following headings:

- Heritage considerations
- Archaeological considerations
- Land ownership
- Building heights and massing
- Flood risk
- Access
- No build zone
- Strategic views
- Services
- Noise
- Ownerships
- Land Contamination and Services

It promotes a mixed use development scheme for the area and splits the wider site into character areas of Riverside, North and South Mast Ponds, Brunel Way, Pembroke Rise and Covered Slips. Within the Development Framework section, there are a number of 'Overarching Organising Principles', which in summary are:

- Protection and enhancement of the significance of the heritage features
- Protection of the strategic and local views
- Flexibility of use, massing and height parameters
- Permeable movement and parking requirements
- Public realm treatment
- Drainage and flooding management

Most relevant to this document are the first three principles and these are expanded upon in paragraphs 2.10 through to 2.16 of that document. This section promotes the opportunity to bring a significant under used part of the dockyard back into a positive use, whilst suggesting that new contemporary developments could also enhance its international significance - reflecting the balance of regeneration and protection which is the overall aim of Medway Council in terms of the future of this site.

A study entitled 'The Building Heights Assessment' was carried out to assess the appropriate building heights for the Interface Land, and assess the strategic and locally sensitive views of the site. The study used a balloon assessment to establish where tall buildings would be appropriate and how the strategic views of the Interface Land would be affected.

The Interface Land SPD deals with each character area in turn suggesting land uses, building heights and massing, and showing features on a land use plan.

- Riverside

The Riverside section suggests that there is an opportunity to animate the waterfront with building heights of up to ten single storeys, with a medium to large scale. A no build buffer zone of 30 metres is proposed between the edge of the Covered Slips and any new development (this distance taken as it is equivalent to the height of the slips), with building heights stepping up away from the slips. The mass and scale of the buildings must allow views from the west to the ridgeline to the east, and respect the grain of the area. It suggests that the building form should be broken up into individual buildings of differing heights so as not to be too monolithic and not to compete with the Covered Slips. Furthermore views through and past the buildings to the green backdrop of Brompton and the Chatham Lines beyond will be important to retain.

The proposed new build would fall within Key View 1A (Upnor Castle) of Part II of this document, to some degree within View 4B (Thunderbolt Pier) and at a distance from View 5 (Fort Pitt Hill).

- North and South Mast Ponds

In this area buildings are proposed to be of a medium scale and up to three storeys in height. The South Mast Pond will be retained as an area of open space/public realm to allow its historical use as a mast pond to be recognised, and the existing surface car park use of this area will be removed.

The setting of the Lower Boat House and its proximity to the water is highlighted and proposed to be protected in any future development, and its relationship with the North Mast Pond retained.

The Brunel Saw Mill and its relationship with the line of the Brunel Canal and the South Mast Pond are also highlighted, with the SPD promoting the opening /displaying of the shaft of the canal at the point where it meets the Mast Pond and the shaft where it links to the Saw Mill.

- Brunel Way

This section lies to the east of the mast ponds, and the document acknowledges the importance of future development protecting the setting of the North Mast Pond. In this location, commercial development is proposed to link more closely to the existing office and hotel buildings, and development is proposed at a medium scale and up to four storeys in height.

- Pembroke Rise

This area is closely related to the South Mast Pond and includes the highest land within the site. Proposed

development is suggested to be primarily residential, up to three storeys in height and of a small to medium scale.

- Covered Slip Buildings

The proposed use for No.5 Covered Slip is a tiered parking structure to help replace those spaces lost at the South Mast Pond where parking currently takes place.

The Interface Land SPD is clearly an extremely important document regarding future regeneration and development within Chatham Dockyard and its Defences. It specifically proposes development, with a key focus on protecting the heritage assets that make Chatham Dockyard and its Defences of international significance.

The Building Heights Assessment has specifically looked at what building heights would be appropriate in this area, and identified the most appropriate locations for them, as set out above. This study built on the findings of the Building Height Policy for Medway (2006) and the assessment methodology followed that set out in the 'Guidance on Tall Buildings' document, produced by CABE and English Heritage (2007). The detailed proposals would allow for new build within some of the Key Views listed in Part II of this document, but the assessment found that the prominence of the existing dockyard buildings and the backdrop of Brompton, Fort Amherst and the Chatham Lines would be unaffected by suitably designed and correctly located tall buildings.

Amherst Hill, Brompton
Design Brief

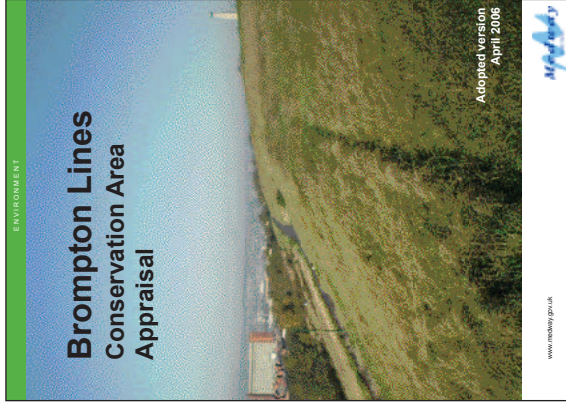
OCTOBER 2010






The Amherst Hill Design Brief was adopted in 2010 to provide guidelines for the development of a small site that was allocated for housing in Medway's Local Plan. The site is in a sensitive and visible hillside position immediately adjacent to Fort Amherst.

The brief requires half of the site to be restored to a grass meadow to preserve historic features such as the glacis (an artificial mound of earth outside of the ditch designed to raise the attacking troops up to provide defensive advantage) and the Field of Fire to Fort Amherst. The remaining part is to be developed for small scale housing with a low visual impact.



The Brompton Lines Conservation Area Appraisal was adopted in 2006 and covers a large area to the east of the River Medway and the dockyard. The Brompton Lines is subdivided into six character areas:

- Chatham Lines
- Brompton Barracks
- Brompton Village
- The Eastern Borders
- Gun Wharf
- Kitchener Barracks

These character areas are described in detail in relation to the characteristics of the area, history, architecture, topography, landscape, townscape, streetscape and Article 4 Direction areas. These character areas form 'The Defences' of Chatham Dockyard.

The document outlines the problems and pressures which could threaten the character of the area, which

include encroachment by modern development, lack of maintenance, poor quality alterations and inappropriate signage and landscaping. The aspirations for the future of this Conservation Area are principally to preserve and enhance the Brompton Lines and their setting. In the long-term these are listed as being:

- An improved maintenance regime for the defences
- Localised restoration of the defences where this is practicable
- Improved public accessibility to, and interpretation, of the defences
- The preservation of the immediate open setting of the defences where this survives
- The preservation and enhancement of existing open spaces
- The preservation and enhancement of key views, particularly of the scarp of the Great Lines and Fort Amherst as viewed from Chatham

- The preservation and enhancement of the 18th and 19th century terraced houses bordering the Chatham Lines, and
- Enhancement of the streetscape through the use of appropriate street furniture and surfacing materials

The various character areas can be seen from a number of the Key Views set out in Part II of this document including View 7 (Fort Amherst), View 1 (Upnor Castle), View 5 (Fort Pitt Hill) and View 6 (Sun Pier). The Conservation Area Appraisal, by its nature, outlines how the heritage characteristics of the site should be protected and enhanced, and as such provides no conflict with the aims of preserving the international significance of Chatham Dockyard and its Defences.



The Upnor Conservation Area Appraisal was adopted in October 2004 and sets out what gives Upnor Conservation Area its special character. This includes the historic development of the area, its architecture, layout and setting of the buildings, streetscape and trees. It then looks at factors that could threaten the historic character of the area. Policies and proposals for the protection and enhancement of the area are set out, including an Article 4 Direction.

In terms of Chatham Dockyard and its Defences, the site specifically includes Upnor Castle, Upnor Barracks, Upnor Ordnance Depot and Upnor High Street.

Key views towards Upnor from St Mary's Island are detailed in Part II of this document (Key View 2). The Conservation Area Appraisal states that Medway Council will resist development which would intrude into, or adversely affect important views. Where possible it will also endeavour to improve river views by encouraging sensitivity in the positioning of yacht moorings.

10 Chatham Dockyard and its Defences Planning Policy Document - Policy Guidance

Upnor Castle also provides the viewing location of Key Views IA and IB, both up and down stream of the River Medway. The panorama looking upstream provides a means of understanding the spatial relationship and visual connections between key elements of the dockyard. The view downstream is towards the former Cockham Wood Fort across a broad sweep of the river where it rounds the end of St Mary's Island to turn eastwards.

The Conservation Area Appraisal, by its nature, outlines how the heritage characteristics of the site should be protected and enhanced, and as such provides no conflict with the aims of preserving the international significance of Chatham Dockyard and its Defences.



Although of limited planning weight, **The Great Lines Heritage Park Management and Maintenance Plan** is used by Medway Council to guide its decisions related to the Great Lines Heritage Park. Accordingly it is described below.

The Great Lines Heritage Park Management and Maintenance Plan covers the period 2012 – 2016 and was prepared within the guidelines of CABE Space's recommended framework for the development of management plans. Specific emphasis is placed on the need to avoid tree planting on the open Field of Fire, and on the removal of encroaching vegetation to restore and preserve the site's historic significance and lines of fire. Whilst Medway Council can only specifically apply the plan to land within its ownership, it encourages all landowners to operate within its framework.



Although of limited planning weight, **The Historic Dockyard Chatham Conservation Management Plan** is used by Chatham Historic Dockyard Trust to guide its decisions on development and building conservation. Accordingly it is described below.

The fourth edition of the Conservation Management Plan was published in April 2011, and covers the period 2011-2016. The whole plan is subject to review at five yearly intervals, with the next review being in 2016/17. In addition the Implementation and Management strategies are reviewed on an annual basis and individual assessments of significance and character are reviewed prior to any major works or adaptations that could affect an individual building or group of buildings. The document is produced by Chatham Historic Dockyard Trust.

The Conservation Management Plan provides detailed information regarding the protected status of the site, its historical context, and an architectural and character

appraisal, and covers the international significance of the site. A complete list of the principal historic buildings and structures is given in Section 3, Table 2, and note made of the fact that the entire Historic Dockyard should be considered as a site of national archaeological importance.

Section 4 covers the management of the site and sets out the management approach to date, which since 2004, has been 'Conservation Through Reuse.' This section goes on to provide conservation policies that form the basis of a comprehensive strategy designed to:

- Retain and protect the historic fabric, integrity, character and quality of the Historic Dockyard as a sustainable heritage resource, befitting its international significance.
- Provide an approach to the maintenance, preservation, restoration and reconstruction of the historic fabric of the dockyard.
- Permit and encourage appropriate adaptation to provide new and sustainable uses for the site's buildings and structures.
- Widen audiences and broaden opportunities for access, education and inclusion.

Policies P1 through to P11 apply to the whole dockyard. They are supplemented by site specific policies contained within supplementary conservation plans or statements for each historic building or structure. The two must therefore be considered together.

Principally the policies focus on the preservation and enhancement of the site to protect its international heritage significance. Policy P8, however, relates to New Build Development. Policy 8.1 states that there is a presumption against the introduction of any significant new-build structures within the core of the Historic Dockyard (shown on the plan overleaf).

Policy 8.2 goes on to state, however, that potential for appropriate new build development exists on two sites – the Interface Land and the site between House Carpenters Shop and the Timber Seasoning Sheds, also known as Block J. These two areas are shown on the plan overleaf.

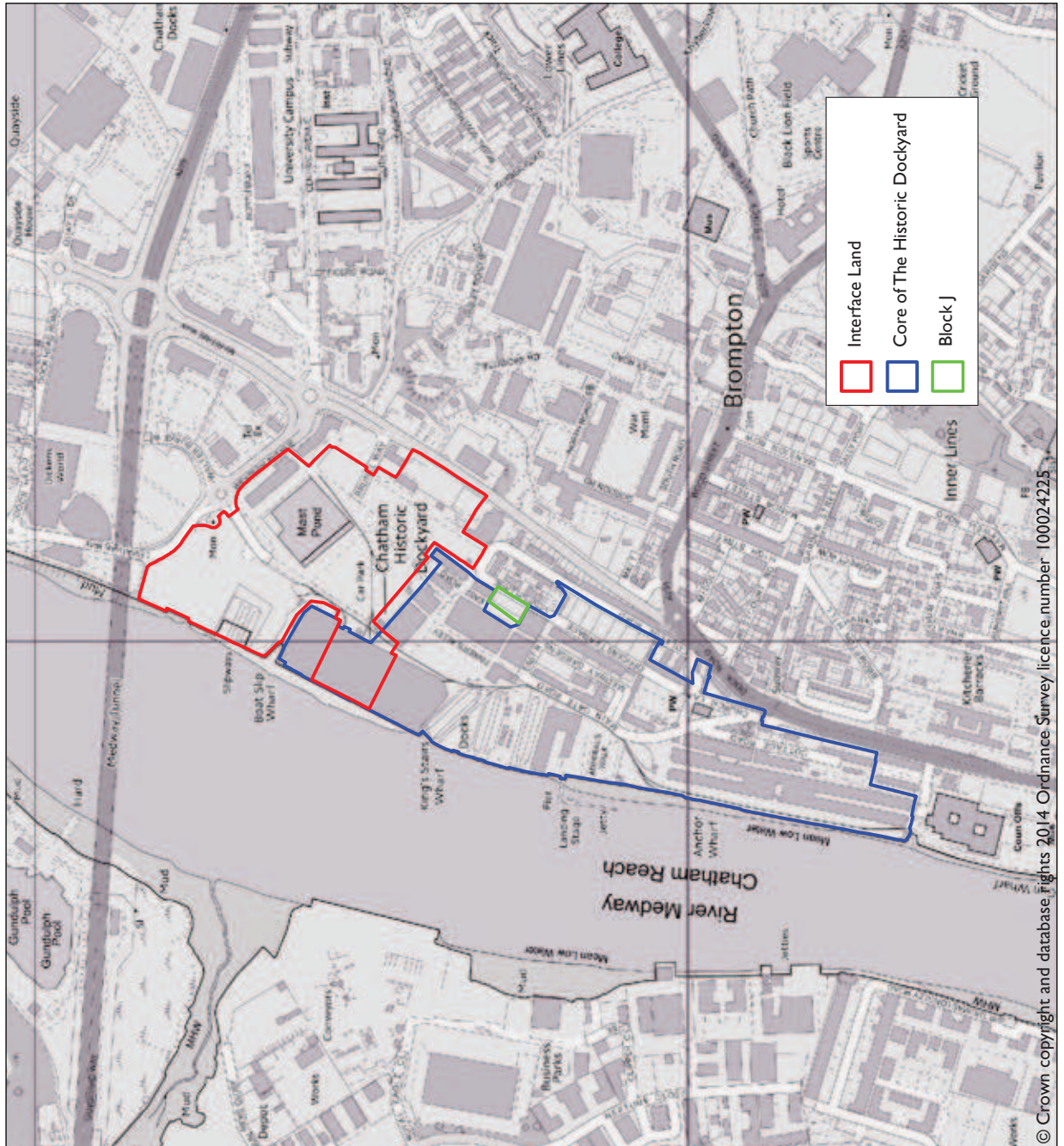
Appropriate development on the Interface Land is encouraged to ensure that this area forms a bridge between the Historic Dockyard and the later Steam Yard, developed as Chatham Maritime. The document references and supports the Interface Land SPD.

Block J was included in the Housing Development zone during the previous plan period but was removed as agreement could not be reached on an acceptable form and height for the residential new build. The opportunity for appropriate development on the site remains.

The Historic Dockyard Chatham Conservation Management Plan provides further focus on the need to protect the heritage value of the site, as with the Conservation Area documents, but does acknowledge that some development in key areas would play a beneficial role in the future of the site. Striking the right balance between the two is the document's primary aim.

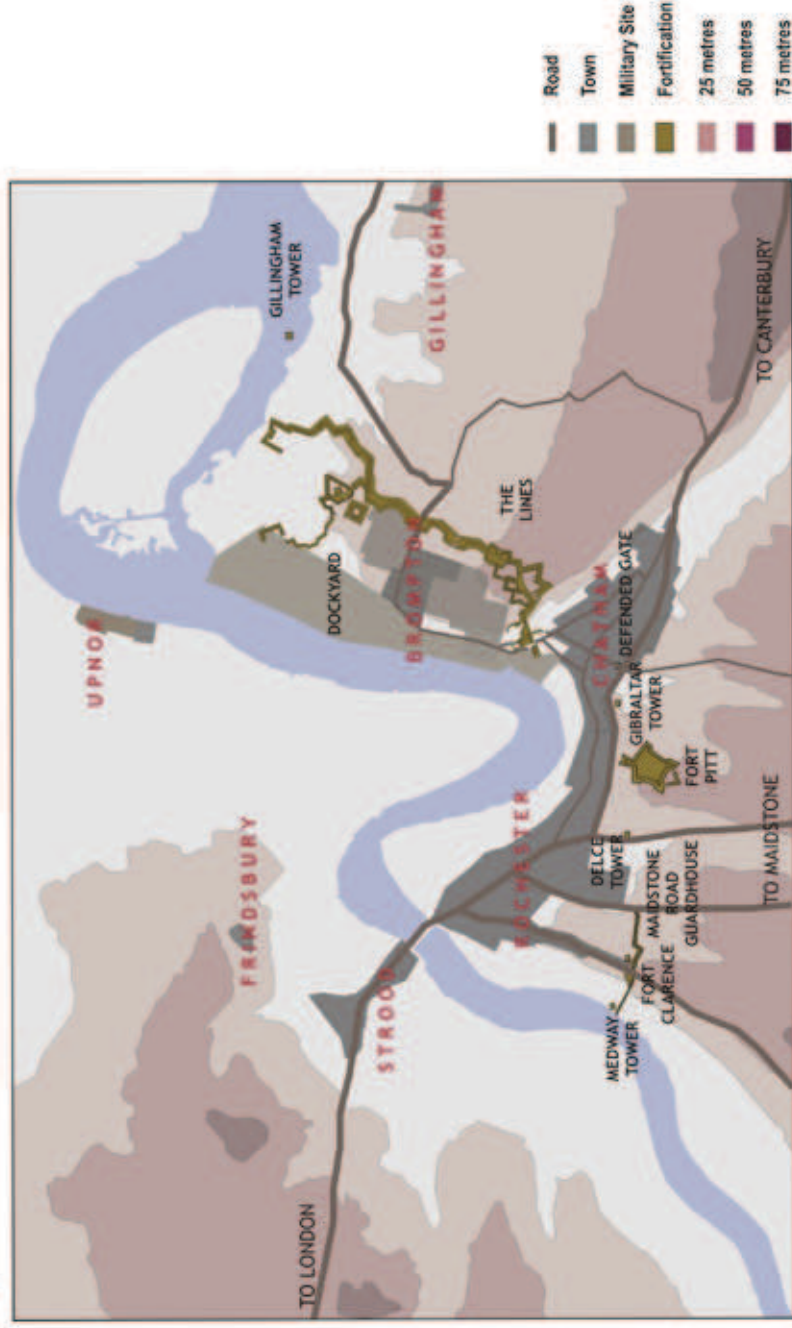
Summary of Policy Guidance

There are a number of policy documents which set out guidance for future developments within Chatham Dockyard and its environs. A number of proposed future uses are suggested within these documents. The council strongly supports both the regeneration of Medway and Chatham's international significance. In order to give the site appropriate protection, and in accordance with the overarching guidance given in the National Planning Policy Framework the emphasis must be for all development proposals to justify that they will not detrimentally affect, or will enhance heritage significance.



Assessing the Impact of Future Development

Napoleonic Defences of Chatham and Rochester



In addition to the significance of various individual elements of Chatham Dockyard and its Defences (referred to as attributes), the inter-relationship of these elements to each other and the surrounding area are of key importance. The geography and topography of Chatham Dockyard and its Defences (highlighted on the adjacent map) allows for these key attributes to be seen from various distinct vantage points. In order, therefore, to provide adequate protection, Medway Council in consultation with key stakeholders has identified a list of key views, which best display its attributes.

Part II of this document sets out in detail seven key views, describing and identifying the important features of each, referring to its historic significance, and also setting out elements of the view that detract from an appreciation of the heritage assets. The views were established following guidance given by English Heritage in 'Seeing The History In The View', published in May 2011. It is a qualitative method that was applied with the principal objective of identifying the views that best display the heritage significance of Chatham Dockyard and its Defences. The process also built on work previously undertaken in identifying strategic views of Medway in the Supplementary Planning Document 'A Building Height Policy for Medway' adopted in May 2006, and referred to above.

The methodology followed four key steps. Step 1 was to undertake an initial survey of various documentary sources which already identified views recognised as being important. This resulted in a list of approximately 40 views. Step 2 was to visit all of these sites and to exclude from further detailed analysis those that were no longer obtainable. In most cases this was due to twentieth century development and/or tree growth, meaning that the views were not likely to be recoverable. Step 3 was to establish the importance of the list of remaining potential views against a set of criteria. This process was undertaken by workshops formed of landowners, individuals with expertise

in the historic environment and planning, and individuals with other expertise and local interest. Finally Step 4 was to analyse the workshop feedback, undertake further consultation with key individuals, and research by the project officer (including cross-mapping of the identified views and site attributes), to determine a list of views considered to be of the highest overall importance – the seven key views of part II.

The selection of seven key views does not seek to suggest that other viewpoints are not of importance, but ensures that each relevant site attribute is protected in the optimum manner. A list of additional significant views can be found in Appendix 4, together with a justification for their significance, and suggestions for how they are best protected.

This methodology is set out in more detail in Appendix 5, along with a full list of those views discounted (Table 2) and sample worksheets of the workshop sessions (Appendix 7).

Methodology

Having given detailed guidance on each of the key views in Part II, Part III sets out the assessment methodology to be followed. The responsibility for this assessment lies with the developer, but must be carried out in consultation with both Medway Council and English Heritage. The five-step approach is based on English Heritage Guidance set out in 'Seeing History in The View' (May 2011), which in turn follows Landscape Institute Guidelines on Landscape and Visual Impact Assessment (GLVIA).

Development proposals within Chatham Dockyard and its Defences and its environs - decision making process

Decisions on developing planning policy and on development proposals within the site are taken through the usual statutory planning process. However, the process is enhanced by the availability of design review for major schemes from the South East Regional Design Panel.

South East Regional Design Panel

The National Planning Policy Framework requires local planning authorities to have design review arrangements in place. In Medway, this service is provided by the South East Regional Design Panel - an experienced body of design experts who review and report on the design aspects of development proposals for the consideration of the Council in its role as planning authority, and for developers and their architects. The Panel is administered by the Kent Architecture Centre.

The Council expects all major development proposals within Chatham Dockyard and its Defences and its environs to be reviewed by this Panel. It will be the developer's responsibility to make arrangements.

Mapping and Mitigation

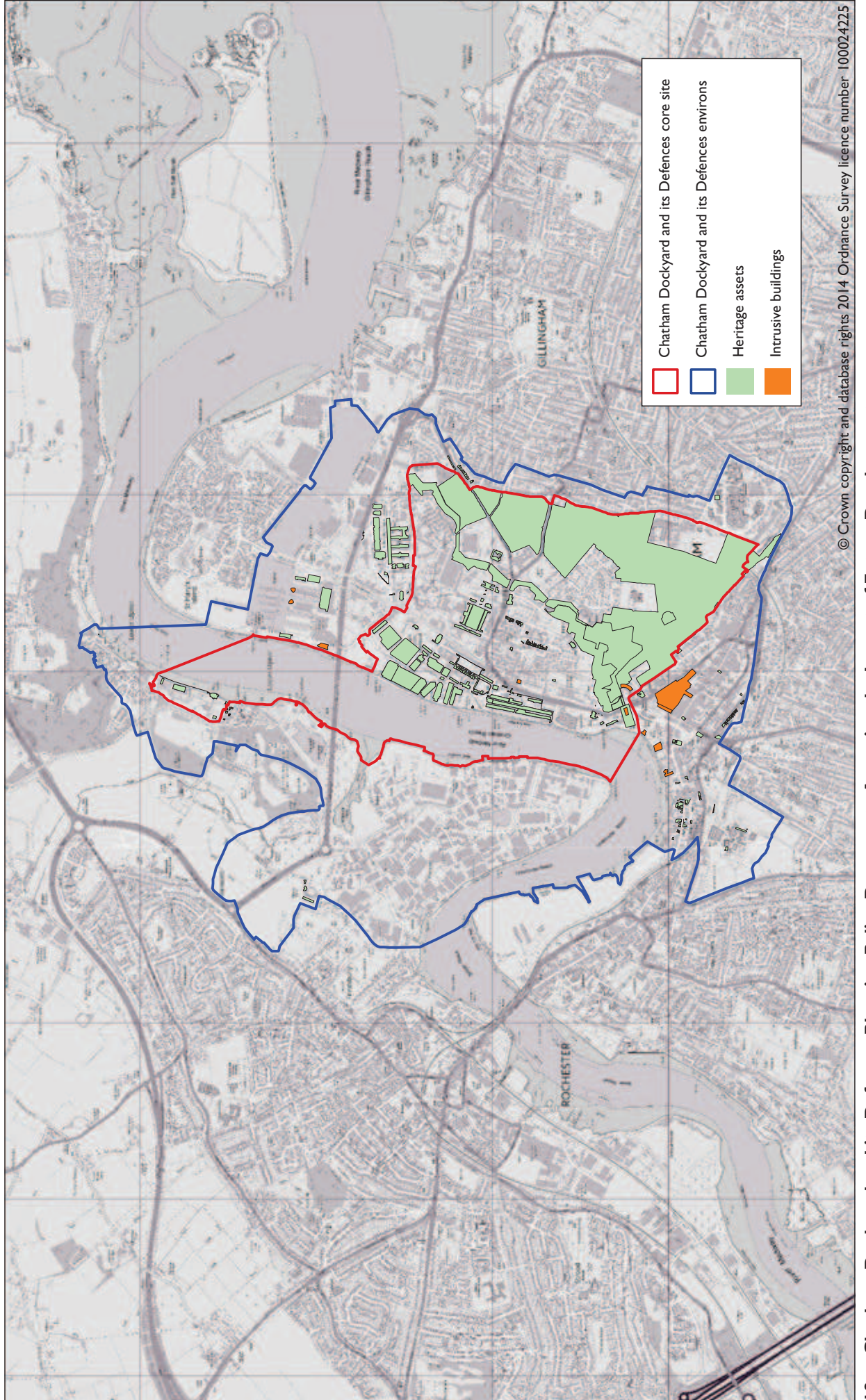
The following table, and map opposite, lists buildings and structures that are prominent in key views to or from

Chatham Dockyard and its Defences and which could be judged to be neutral or negative features. It includes suggestions for mitigation in the short to long-term where appropriate.

Note: the table does not include prominent features which are not apparent in the key views.

Prominent Elements	Characteristics	Comments
1. Broadside House (views 1A, 1B) (Neutral)	Broadside House is a modern building which is prominent in views from Upnor due to its light coloured cladding on the river elevation.	Cladding likely to become more muted over time. Reflects a previous large historic dockyard building on the site of a scale similar to the Listed Dockside Outlet (former boiler shop).
2. The Quays (views 1A, 1B, 6) (Neutral)	Two glazed residential towers of 19 and 16 storeys high, at the heart of Chatham Maritime overlooking the marina. Located some distance from the historic core of the dockyard and within the environs of Chatham Dockyard and its Defences. Taller than all other buildings in the vicinity.	Views are limited from within the dockyard itself although the buildings are prominent in riverside panoramas that include the dockyard. The buildings were conceived as slim towers that form a 'picturesque' contrast with the low-lying landscape. Their slimness allows views past to the backdrop of the scarp slopes that are the location of the defences of the dockyard - thus an understanding of the link between landscape, the dockyard and its defences has been maintained.
3. Victoria Tower (view 1A, 3, 4A, 6) (Negative)	Utilitarian high-rise sixties era tower that breaches the otherwise green and undeveloped skyline to the east. Its impact is increased by its already elevated location. It mars views to and from the dockyard from several locations.	Opportunities should be taken to work with the owner if and when significant property refurbishment takes place or the site becomes available for redevelopment over the long term.
4. Riverside One (view 7B) (Negative)	The small Council-owned Riverside One building is constructed within the former 'wet ditch' where the western end of the defences met the River Medway. The rear wall of the building incorporates the former rampart and firing step of the riverside defences. It is in a very poor structural condition and of no architectural merit.	Due to its condition it will be necessary to relocate the current use to an alternative location in the short to medium term. This provides an exceptional opportunity to reinstate the ditch and its ramparts and re-present Fort Amherst from the riverfront.
5. Rats Bay Pumping Station (view 6, 7C) (Negative)	Wholly utilitarian construction in prominent riverfront location.	Protects Chatham town centre from surface water flooding but could be re-clad to minimise its visual impact or replaced with a smaller building with more modern equipment that could be mainly installed below ground level.
6. The Eye (view 7C) (Negative)	Modern residential block of good architectural quality but occupies a site within the firing line of batteries located within Fort Amherst.	Limited opportunities for mitigation due to its relatively recent construction, but opportunities could be explored to reduce the visual impact of the development in line with the routine maintenance and upgrading of the building - in particular to the form and materials of its roof.

7. Pentagon Shopping Centre (view 7C) (Negative)	Bulky building located under Mountbatten House. Prominence accentuated by the use of red engineering bricks and exposed concrete structural elements.	Significant opportunities to enhance its visual appearance as part of any major refurbishment scheme. This could include re-cladding, the removal of vehicle ramps and enhancement of the public realm that would generally reduce its visual impact on the heritage assets to the north.
8. Staples Superstore (views 6, 7C) (Negative)	Prominent utilitarian sheet steel and brick clad warehouse building on the waterfront between Sun Pier and the Rats Bay Pumping Station.	Redevelopment in conjunction with adjoining land expected in the medium term in line with the Chatham 21 SPD.
9. Anchorage House (views 3, 7C) (Negative)	Poor quality and tall sixties era office building that contrasts sharply with nearby heritage structures and which, in conjunction with Mountbatten House screens longer views to Chatham Dockyard and its Defences from the south and west.	Redevelopment opportunities should be explored over the longer term.
10. Mountbatten House (views 3, 6, 7C) (Negative)	Tall and bulky structure, the impact of which is accentuated by the harsh cladding materials and visual relationship to the Pentagon Shopping Centre. It has an extensive visual envelope that encompasses significant parts of Chatham Dockyard and its Defences.	The building is currently unoccupied and has been vacant for some time. This may drive refurbishment proposals in the medium term and present opportunities to reduce its visual impact through the use of new cladding materials and other design features.





Aerial photography by Bryan Gulliver: bryan@thearco.co.uk, 01634 841069

MAP SHOWING VIEWING LOCATIONS

- 1 Upnor Castle - two viewpoints
- 2 Blue Crane, St Mary's Island
- 3 Medway City Estate
- 4 Thunderbolt Pier - two viewpoints
- 5 Fort Pitt Hill
- 6 Sun Pier
- 7 Fort Amherst - four viewpoints

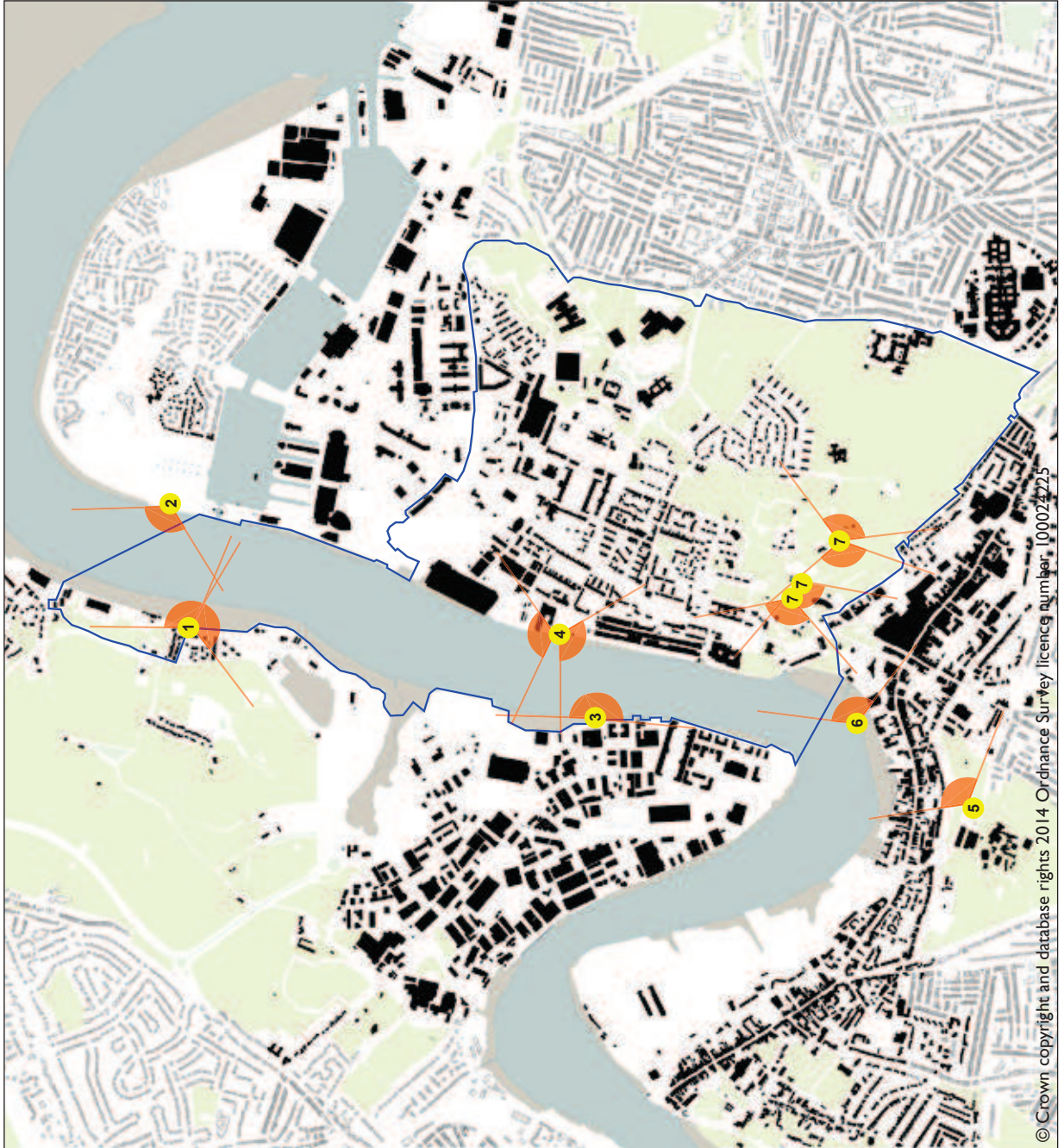
Part II - Key Views

The methodology statement in Appendix 5 describes how the key views set out and analysed in Part II were identified. The principle purpose of this document is to establish an understanding of the baseline views to be used when monitoring the condition of Chatham Dockyard and its Defences. These are the views that most reflect the international significance of the site.

It is important to note that in relation to any specific development proposal other views may be considered to be important in general planning terms or may have broader landscape significance for an individual heritage asset or group thereof. Any such additional views should be identified in consultation with Medway Council through pre-application discussions considering the scope of the visual impact assessment of that proposal.

There are seven viewing locations described here, some of which have more than one viewpoint associated with them. The viewing location is first described, making reference to its historic significance, or other reasons for its selection. The view from each viewing point is then explained, identifying the important features of the view with an emphasis on the heritage assets that are visible and the important visual connections and spatial inter-relationships between them, as well as identifying elements of the view that detract from an appreciation of the significance of the heritage assets.

View descriptions are followed by visual management guidance identifying key considerations relating any new development proposed within the view to the features identified in the view description, and proposing how the viewing location itself might be managed.

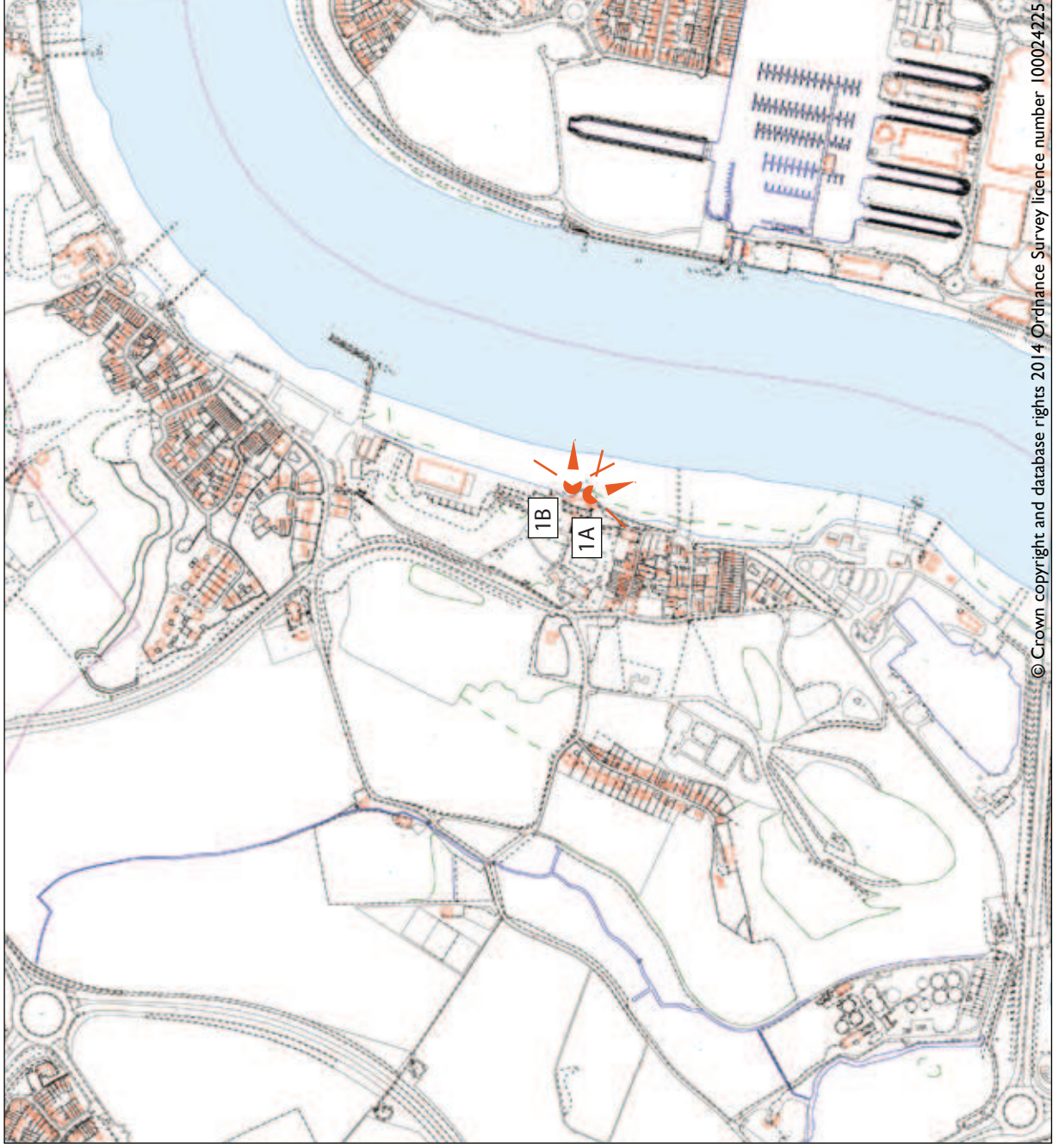


I Upnor Castle

The two viewing locations at Upnor Castle are adjacent on the water bastion that extends out from the castle onto the foreshore. The castle provides a viewing location of great historic significance due to its functional and historic role as the oldest defence of the dockyard. (It should be noted, however, that during the age of sail and early age of steam, the castle had an ordnance role rather than a defensive one).

Upnor was an integral part of the Royal Dockyard complex. The castle was built in 1559-67 as the first principal defensive structure for the fleet when anchored in the River Medway. After the Dutch Raid (1667) it took on a new role as the main powder magazine for the Ordnance Board at Chatham. Powder had to be stored remotely from the dockyard and Gun Wharf in order to limit the chance of catastrophic accidents at either site. The ordnance function expanded significantly during the Napoleonic wars when a major magazine (now demolished) was constructed to the north of the castle (1806). A further magazine was constructed in 1856.

Viewing locations 1A and 1B refer to the upstream and downstream sides of the water bastion. The panorama looking upstream from this viewing location provides a means of understanding the spatial relationship and visual connections between key elements of the dockyard complex. Both viewpoints also benefit from a well-preserved, highly distinctive, naturalistic setting that provides ambience and bolsters the sense of place of the site. The inter-tidal zone is unaltered by flood defences here in contrast to the riverfront viewing locations further upstream.



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Panorama from Viewing Point 1A

-20

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Viewing Location 1A
From Upnor Castle upstream towards The
Historic Dockyard Chatham
 OS co-ordinates: 575872, 170567



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Summary: Viewing Location 1A

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor ordnance depot and Gun Wharf.
- Location next to the river.

Notable features of the view:

- Demonstrates the spatial inter-relationships of the dockyard and its defences.
- Scheduled and Grade I Listed Covered Slips.
- The green ridgeline of the Chatham Lines and Brompton Barracks.
- Upper Upnor and extensive river foreshore.

Intrusive features of the view:

- Victoria Tower breaks the escarpment ridgeline.

Description of the View

From this viewing point it is possible to see the river, Covered Slips in the dockyard, Brompton Barracks and the Chatham Lines. The viewing location demonstrates the key relationship of Upnor Castle to the river and evidences the scene of the Dutch Raid of 1667.

The view is focussed on the industrial and manufacturing area of the dockyard site rather than the administrative and domestic quarters to the south. The centre of the view is occupied by the Scheduled and Grade I Listed Covered Slips. These structures provide a solid edge to the waterfront and are one of the most distinctive and imposing skylines on the river. The impressive scale of the Covered Slips is somewhat compromised in this view by the sight of Victoria Tower rising behind them in the background.

Victoria Tower also breaks the ridgeline that provides the green backdrop to the dockyard marking the extensive system of fortifications built to defend it. The spatial relationship is particularly important in allowing an appreciation of the significance of the dockyard and its defences. The extent of the survival of these landward defences to the dockyard is particularly significant as it is now much greater than at the other two contemporary home dockyards (Plymouth and Portsmouth).

The view of the dockyard to the right of the Covered Slips is of the cranes of the dry docks and the Ropery and Anchor Wharf storehouses. The slab block of Mountbatten House in central Chatham rises behind them. Although not distinct as it is in the far background of the view, this panoramic viewpoint allows an appreciation of the visual connection with the defences further upstream at Fort Pitt.

In the middle and foreground at the right hand side of this view, the village of Upper Upnor forms the shoreline

and the extensive river foreshore dominates the view immediately beyond the castle's wooden palisade. The jetty and boathouses on the military land on the riverbank facing the dockyard are not large structures but the design of the buildings does not sit discretely within this naturalistic setting, or enhance the appreciation of the dockyard.

To the left of the Covered Slips a number of other highly significant dockyard buildings are visible. On the high ground on the eastern boundary behind the low dark form of the Scheduled and Grade II* Listed Timber Seasoning Sheds and Grade II Listed Galvanising Shop is the Scheduled and Grade I Listed Brunel Saw Mill. It is a prominent building because of its tall tapering chimney. The pale slate roofs and light buff brick of recent dockyard housing development occupies the portion of the view between the Brunel Saw Mill and No.7 Covered Slip. A darker palette of materials would perhaps have allowed this development to recede visually in this view.

The buildings of Brompton Barracks are visible through trees on the ridgeline overlooking the dockyard and the Officers' Mess can be seen to have a direct visual connection with the river. The openness of this relationship has been altered by tree growth and the photographs should be contrasted with the 1789 image (below) that shows the land rising behind the dockyard virtually clear of trees.

The only structure visible in the dockyard in the open area between the Brunel Saw Mill and the tall vertical marker of the Grade II* Listed Bell Mast is the Grade II Listed Police Section House. This northernmost area of the dockyard is occupied by the two Scheduled Mast Ponds and the Grade II* Listed Lower Boat House. The western end of the Lower Boat House is just visible behind Broadside House. This area, known as the Interface Land, was occupied by buildings historically and will be subject to future redevelopment.

The Royal Dockyard at Chatham. This view is taken from the banks of the River Medway, near Upnor Castle. Drawn and engraved by R. Dodd 1789. © Maps K Top.16.42-d.British Library, Kings Collection.



A Development Brief was adopted by Medway Council in 2010.

In the zone further to the left of the Historic Dockyard there remain some prominent buildings from the Victorian era of the northern expansion of the dockyard amongst more modern Chatham Maritime development. Significant buildings include Pump House No.5 (1873).

The twin residential towers of The Quays at the far left of the view are some distance from the historic core of the dockyard and the slim towers form a picturesque contrast with the low-lying landscape. Other distinctive modern buildings include Broadside House, which reflects the presence of a large historic dockyard building on the site, Although not unsatisfactory in terms of its scale, it could benefit from a more subdued treatment of its external finishes.

Visual Management Guidance

Foreground and Middle Ground

The panorama is sensitive to development within the Chatham Maritime area and the military land facing the dockyard on the opposite bank of the river. The scale of new development should not detract from the dominance of the Covered Slips in this panorama and care should be taken in selecting materials and finishes that are not visually obtrusive.

Background

Development of the Interface Land should pay regard to existing planning policy guidance. It is important that development to the east of the dockyard does not break the green ridge line.

Consideration should be given to the removal of trees that obscure historically significant sight lines such as that between the river and the Officers' Mess at Brompton Barracks. However, the presence of trees may not in general affect the understanding of the relationship between the dockyard and its defences and may be considered to provide an attractive setting.

This area is subject to control by policies in the Brompton Lines Conservation Area Appraisal.

Opportunities should be explored to remove or otherwise mitigate the visual impact of Victoria Tower.

In seeking to enhance the setting of the Historic Dockyard in future development proposals for Chatham Maritime, the Interface Land and St Mary's Island, regard should be paid to the appropriate selection of materials and finishes so as not to detract from the appreciation of the heritage assets.

Management of the Viewing Location

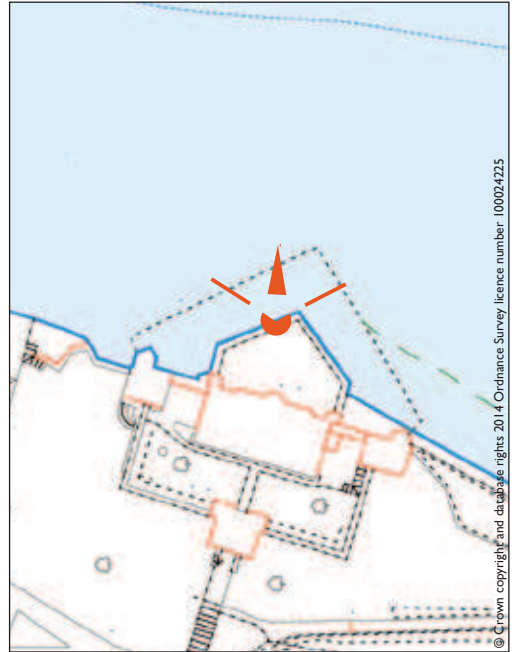
Upnor Castle is currently a well-managed viewing location.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.



Panorama from Viewing Point: IB

Viewing Location IB
From Upnor Castle downstream towards the site of Cockham Wood Fort
 OS co-ordinates: 575874, 170571



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Description of the View

The view from Upnor Castle to the site of Cockham Wood Fort is a commanding one that reflects the historic defensive role of the castle in relation to the dockyard. The view takes in a broad sweep of the river as it rounds the end of St Mary's Island and starts to open up into the wider estuary. The naturalistic setting of the river is an attractive and dominant feature of the view.

The viewing location demonstrates the key relationship of Upnor Castle to the river and evidences the scene of the Dutch Raid of 1667. The high ground on the north bank of the river is juxtaposed with the low-lying nature of St Mary's Island and the development on it. Cockham Wood Fort was built, along with the long demolished Gillingham Fort, as a result of the Dutch Raid to help defend Chatham Dockyard from an attack by enemy ships sailing up the River Medway. The fort was built into the hillside on the north bank of the river commanding views downstream to the east and

Summary: Viewing Location IB

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Location next to the river.

Notable features of the view:

- Ruins of Cockham Wood Fort.
- Upnor Reach section of River Medway.
- St Mary's Island.

was completed by 1670. Some of the guns for the fort came from Upnor Castle and it is assumed that it would have been garrisoned from Upnor. By the late 18th century the fort was recorded as falling into ruins and was finally abandoned in 1818. It is a Scheduled Ancient Monument.

The development of St Mary's Island does not generally detract from an appreciation of how the openness of this river setting contributed to the location and function of the defences of Upnor and Cockham Wood Fort. The tall twin towers of The Quays development are on the south side of the basins that were formed in the latter part of the 19th century. This land was a creek and marshland during the age of sail and early age of steam and may have provided a direct sight line from Upnor to the eastern approaches downstream. Twentieth century land raising and development means that an open view downstream is no longer a practicality.

Visual Management Guidance

Foreground and Middle Ground

The final phase of St Mary's Island will be predominantly residential with higher parts (potentially up to five or six storeys) immediately to the north of Basin 3 and more traditional height housing (two and three storey) beyond. This will ensure an open prospect, retaining the wooded backdrop, in views downstream over land to the north of the Blue Crane.

Background

The wooded backdrop is a significant landscape feature within this view of the north bank of the river. Tower Hill to Cockham Wood has national protection as a Site of Special Scientific Interest and is locally protected as countryside. (See Medway Landscape Character Assessment 2011.)

Outline permission has been granted for a major new development within Chatham Docks - towards the centre/right of the view - Chatham Waters. The proposed new development includes buildings to a maximum height of 17 storeys (descending in height from a localised area). Views were assessed from a variety of surrounding locations. One of the agreed viewpoints was situated along the foreshore of Upper Upnor, immediately to the south of Upnor Castle. The photomontage (Accurate Visual Representation) of the built scheme shows a relatively minor adverse visual effect on the horizon of the new development.

In seeking to enhance the setting of the Historic Dockyard in future development proposals for Chatham Maritime and

St Mary's Island, regard should be paid to the appropriate selection of materials and finishes so as not to detract from the appreciation of the heritage assets.

Management of the Viewing Location

Upnor Castle is currently a well-managed viewing location.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.



Attack on the Medway by Peter Cornelisz van Soest c. 1667. © National Maritime Museum.

2 Blue Crane - St Mary's Island

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This is a good location from which to appreciate Upnor and the only proposed viewing location on St Mary's Island. Although one of a series of potential viewpoints along the riverfront, it has already been designated as a public viewpoint with a plaque commemorating the significance of the Dutch Raid of 1667. The next major stage of development on St Mary's Island is planned for construction shortly and use and appreciation of this area will increase.

Upnor Castle is a small but important structure that stands alone in this view and is clearly readable. It was on this stretch of the River Medway that the Dutch Raid of 1667 took place - a significant, and at the time, catastrophic event in British naval history. Following this raid, Gillingham Fort and Cockham Wood Fort were built (1669) on opposite banks of the River Medway in order to defend Chatham Dockyard from seaborne attack. The remains of the scheduled Cockham Wood Fort (to the east of this panorama) are to the north on the foreshore - below Cockham Wood. Upnor also has heritage significance for its role in the development of ordnance facilities.

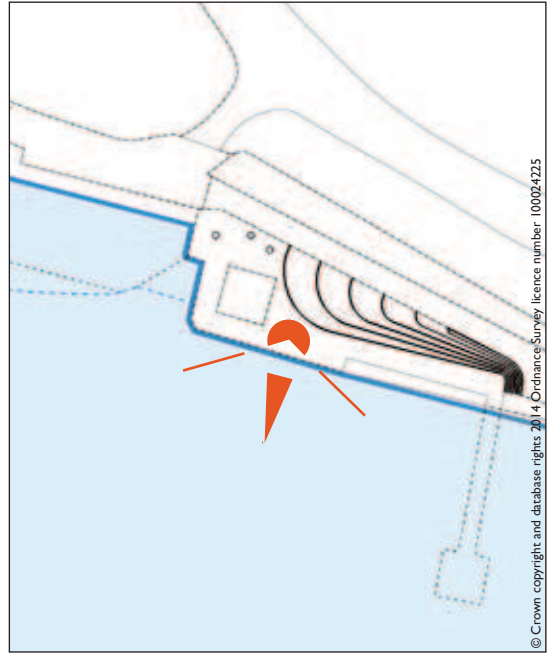




Panorama from Viewing Point 2

Viewing Location 2 From Blue Crane to Upnor

OS co-ordinates: 576247, 170595



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Summary: Viewing Location 2

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Location next to river.

Notable features of the view:

- Upnor Castle and Ordnance Depot.
- Upnor Barracks.
- Significant woodland backdrop.

Description of the View

This viewpoint takes in a broad sweep of the western embankment of the river, including Rochester Castle to the far left (behind the viewing platform), Upper Upnor, Upnor castle and Ordnance Depot 'B' Magazine to the centre and Lower Upnor to the right, all nesting on the shoreline with the wooded ridgeline of Tower Hill to Cockham Wood Site of Special Scientific Interest providing a tranquil background setting.

The principal significant buildings and structures are Upnor Castle, The Barracks, Ordnance Depot 'B' Magazine and the unlisted No 2 Shell Store and a Grade II Listed wall extending north east from Upnor along the River Medway. This assemblage of buildings and structures forms the central and focal section of this view and is notable for the way the buildings are set into the landscape in a harmonious form, creating a tranquil setting. The surrounding trees frame and soften the buildings. Development in the

neighbouring villages of Upper and Lower Upnor has been generally sensitive to the landscape, and the range of water based facilities and craft at Lower Upnor connects the waterfront to the river in a respectful and appropriate manner.

The heritage significance of this view is twofold. It was the scene of the Dutch Raid of 1667, a major event in British naval history, and it evidences the development of ordnance facilities at Upnor:

The Lower Upnor Depot stored and prepared munitions for naval ships laid up in Chatham Dockyard, and by the end of the 19th century was the centre of a network of ordnance sites that extended well into the Hoo peninsula. It comprised a number of buildings and those that survive include the B Magazine (1856) and No.2 Shell Store (1862). These buildings chart the development of ordnance facilities

at the site - from adapted fortifications, to specialised vaulted magazine structures for bulk powder storage, to simple, lightweight buildings for the bulk storage of filled shells. Continual advancement in technology is a key component of the site's international significance.

Visual Management Guidance

New development in the context of this view should respect the historical references to the development of ordnance facilities at this site and its significance in British naval history as the setting for the Dutch Raid. The Conservation Area status of Upper Upnor, the Site of Special Scientific Interest status of the woodland backdrop, combined with the heritage significance of Upnor Castle and its adjacent ordnance facilities, all indicate that this area is highly sensitive to change. In respect of the setting of Chatham Dockyard and its Defences all proposed new

development should be of appropriate height, scale, massing and materials. It should respect the setting of the castle and adjacent historic structures and views towards the dockyard, across the river and upstream towards Gillingham Reach.

Foreground and Middle Ground

This panorama is sensitive to development in all respects; the foreground as the site of the Dutch Raid and the middle ground as the sensitive river frontage at the Upnors, with Upnor Castle set within a tranquil woodland backdrop. New development should be strictly controlled in terms of height and massing and there will be some places where new development of any kind is not considered appropriate.

Background

The background comprises the Tower Hill to Cockham Wood Site of Special Scientific Interest. Aside from its SSSI significance this woodland backdrop has an important role in framing significant heritage assets along the waterfront and should be protected and enhanced in its current form.

Management of the Viewing Location

Public access to this viewing point and the adjacent viewing platform should be maintained. The plaque should be preserved and updated as an increased understanding of the significance of this view is appreciated.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.



The Burning of the English Fleet near Chatham, June 1667 - an oil painting by Willem Schellinks. © Collection Rijksmuseum, Amsterdam.

3 Medway City Estate

The Frindsbury peninsula was undeveloped riverside marshland during the age of sail and early age of steam. Numerous historic images of Chatham Dockyard are drawn from the west, presumably from viewing locations on the riverbank of what is now the Medway City Estate. Examples of significant topographical paintings include that below by Elias Martin (1774).

Although now developed for office and industrial uses, the river front remains accessible providing unobstructed views to the east to the Historic Dockyard and the Chatham Lines. Medway City Estate is recognised as providing key views of the dockyard within the Brompton Lines Conservation Area Appraisal and the chosen viewing location described here is considered the best vantage point from which to appreciate the integrity and authenticity of the dockyard.

Multiple alternative viewing locations exist on Medway City Estate although few currently have unrestricted public access.



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A view of Chatham Dockyard c.1774. A painting by Elias Martin. © Chatham Historic Dockyard Trust.



Panorama from Viewing Point 3

Viewing Location 3
From Medway City Estate looking east
across the river to the Historic Dockyard
 OS co-ordinates: 575507, 169026



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Description of the View

This view stretches from Upnor and the Covered Slips on its left hand side to an impressive view of the Anchor Wharf Storehouses on its right, with numerous other structures arrayed between them. It offers a view of the most complete assemblage of dockyard buildings with the defensive lines behind and is therefore the best place from which to appreciate the integrity and authenticity of the dockyard.

From this point on the Frindsbury Peninsula the view of the Historic Dockyard is dominated from its centre to the far right by the Scheduled and Grade I Listed Anchor Wharf Storehouses. Built from 1773-1805, towards the latter part of the age of sail, these are the largest storehouses ever built for the navy.

The southern building (right), Store House No 3, was built from 1773-83 as a 'lay apart store'; a store for equipment from vessels under repair. The northern building (left), Store House No 2, 1793-1805 was built as a Fitted Rigging House and general storehouse for equipment to fit out newly built ships. It is nearly 700 feet (210 metres) in length.

Summary: Viewing Location 3

Attributes demonstrated:

- Fort Amherst and the Chatham Lines occupy the high ground to defend the dockyard.
- Location next to river.
- Juxtaposition of high ground adjacent to river.
- Demonstrates the spatial inter-relationship of the dockyard and its defences.

Notable features of the view:

- Upnor Castle.
- Significant assemblage of dockyard buildings.

Intrusive features:

- Mounbatten House.
- Victoria Tower breaks the escarpment ridgeline.

The Storehouses obscure the buildings of the Ropeyard (Ropery, Hemp and Tarring Houses) arranged in parallel rows behind them. As noted in the Historic Dockyard Chatham Conservation Management Plan, the impression that the storehouses create is of "a visually strong rectangular block of brick construction overlooking the River Medway. The sheer size, height and length of these buildings provides a dramatic appearance to the waterfront". The unobstructed nature of this view, with the river occupying the foreground, heightens the sense of the monumental scale of these structures.

Further to the south of Anchor Wharf is the late 1970s Medway Council offices, formerly the Lloyd's headquarters Building, by Arup Associates. This is generally considered a building of some architectural merit due to the way that, despite its size, its materials and horizontal emphasis relate to the important heritage assets of Anchor Wharf. Beyond this to the south, but increasingly less significant as elements of the view, are the tower of St Mary's Church and the buildings of central Chatham.

The green ridgeline marking the dockyard's defences is visible behind Anchor Wharf and is largely unbroken other than by the particularly incongruous and visually intrusive 1960s Victoria Tower. The upper two storeys of the four storey Khartoum Building within Kitchener Barracks can be seen above Store House No 3.

To the north of Store House No 2 the Historic Dockyard is more open in character and a varied collection of low-lying important buildings are visible positioned on the sloping ground between the river on the western boundary and dockyard wall to the east. The majority of these buildings were built for administrative and domestic purposes. The heritage assets in this centre left portion of the view are largely unaffected by visual intrusion from modern development and the ridgeline marking the defences can be

clearly perceived behind them dropping from view behind the chimney of the Scheduled and Grade I Listed Brunel Saw Mill that occupies high ground adjacent to the eastern boundary towards the northern end of the dockyard.

The Scheduled and Grade I Listed Covered Slips towards the far left of the view mark the industrial and manufacturing area of the dockyard. These structures provide a solid edge to the waterfront and one of the most distinctive and imposing skylines on the river. Beyond it to the north is the low-lying development of St Mary's Island and facing it on the opposite bank of the river is Upnor Castle. Due to its defensive and ordnance functions, Upnor Castle is a highly significant and integral part of the dockyard complex.

Visual Management Guidance

Foreground and Middle Ground

The fore and middle ground of the panorama is not susceptible to new development as the foreground is dominated by the river and the middle ground is controlled in line with policies in the The Historic Dockyard Chatham Conservation Management Plan.

Consideration could be given to the visual intrusion of car parking on Anchor Wharf.

Background

This area is subject to control by policies in the Brompton Lines Conservation Area Appraisal.

Opportunities should be explored to remove or otherwise mitigate the visual impact of Victoria Tower in any future redevelopment proposals for this site.

Future redevelopment proposals for the Kitchener barracks site should not break the ridgeline. A development/design brief will need to be agreed for the site to assist in the practical application of this guidance. All proposals must respond positively to the special character of the Brompton Lines Conservation Area including the contribution made by the undesignated military buildings that now make up the barracks.

The removal of trees and hedges that encroach upon the open spaces of the Inner Lines and Great Lines should be considered where they are not an important element of setting. The exception to this is where trees on the ridgeline screen existing development that would be more harmful to an appreciation of the historic function of the Lines.

Management of the Viewing Location

Due to the historic significance of this viewing location and the fact that it is the best vantage point from which to appreciate the integrity and authenticity of the dockyard, opportunities should be explored to improve public access in the future. This could take the form of the inclusion of a riverside walk within any future development briefs with interpretation plaques where these would help to enhance the viewing experience.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.

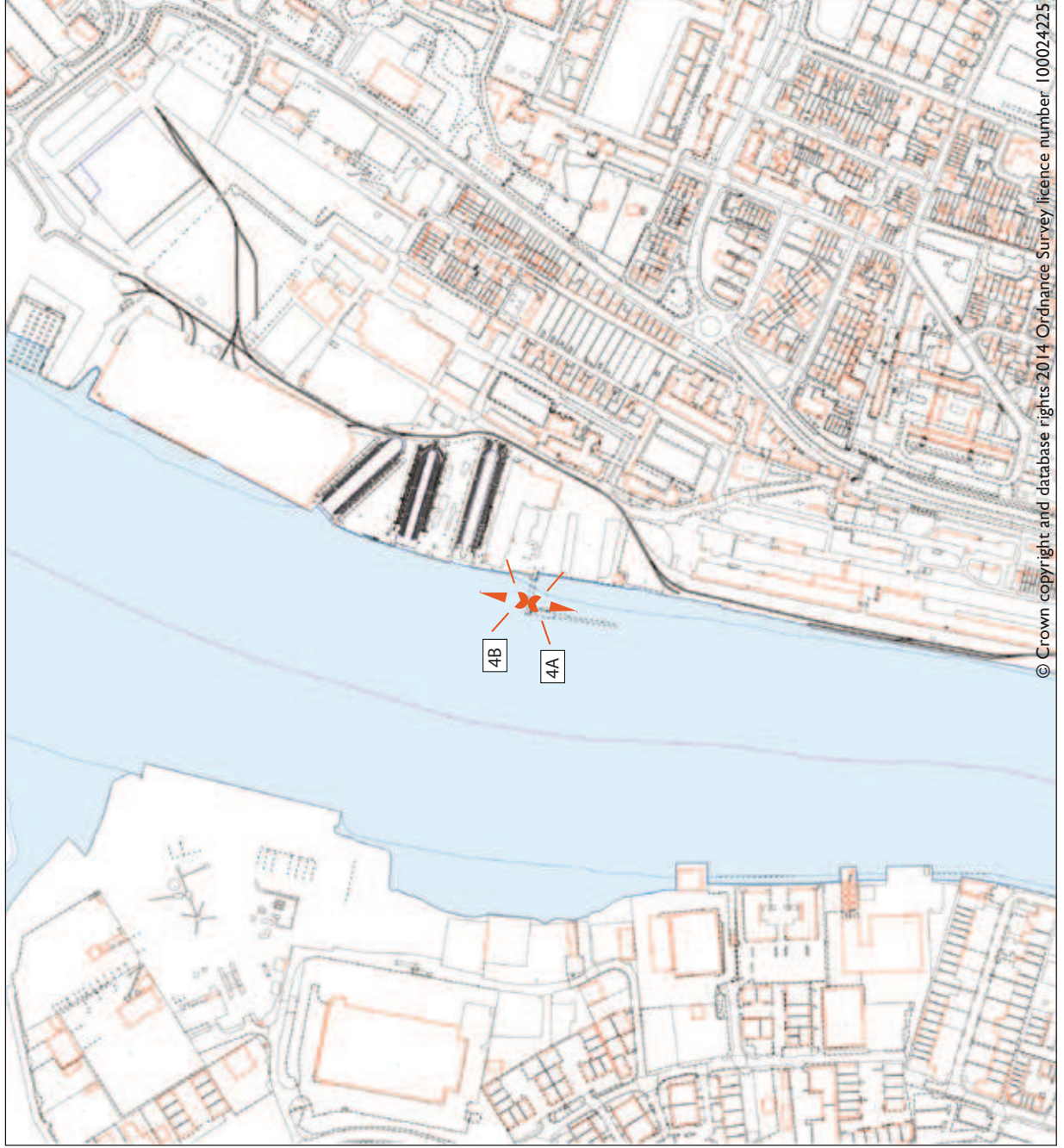
4 Thunderbolt Pier

Thunderbolt Pier is located on the waterfront at a mid point within the Historic Dockyard. This viewpoint is important in illustrating the connection of the dockyard to the river.

The precise viewpoint location was determined in consultation with Chatham Historic Dockyard Trust. There are two viewing directions, one looking upstream and the other downstream.

- Viewpoint 4A is the upstream view. Immediately to the south of Thunderbolt Pier are the Queen's Stairs – the 17th and 18th century ceremonial landing point to the dockyard and therefore a key historical location in the context of the dockyard's relationship with the river.
- Viewpoint 4B is the downstream view and illustrates the historic and functional relationship between the dockyard and Upnor Castle.

The dockyard itself is a Conservation Area and contains an outstanding collection of highly graded Listed Buildings and Scheduled Monuments. The view from its river edge needs consideration, including its relationship to the long views to Rochester, its castle keep and cathedral.



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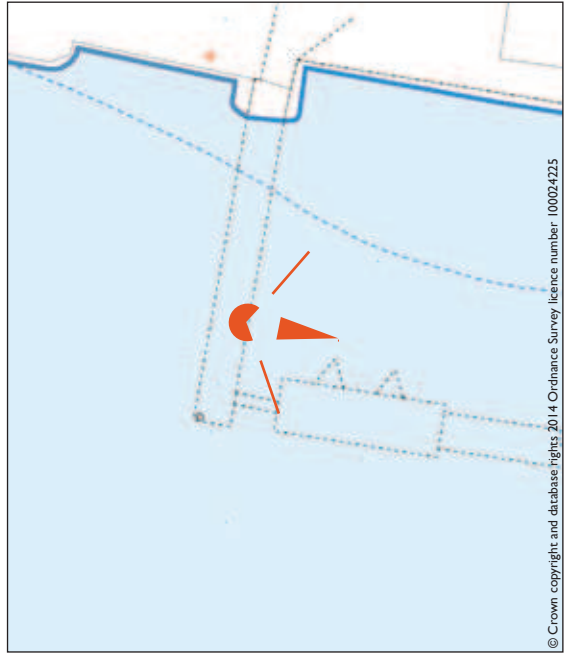


Panorama from Viewing Point 4A

Viewing Location 4A

Upstream from Thunderbolt Pier

OS co-ordinates: 575764, 169193



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Summary: Viewing Location 4A

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Location next to river.

Notable features of the view:

- Commissioner's House.
- Assistant Queen's Harbourmaster's Office and Queen's stairs.
- Anchor Wharf Storehouses and Ropery complex.
- Industrial waterfront uses.

Intrusive features:

- Staples building and Anchorage House.
- Victoria Tower.

Description of the View

This is a broad river view that includes the southern part of the Historic Dockyard and the Chatham Reach of the River Medway with dense urban development and wooded backdrop to the skyline. The development along the Lower Chatham High Street merges into the commercial buildings that front the shoreline on the opposite bank of the river at Medway City Estate. A contemporary sailing craft landing stage is prominent in the foreground of this view.

Significant buildings within the dockyard that appear within this view are the Commissioner's House (to the far left), the Assistant Queen's Harbourmaster's Office (the white building in foreground) and the Queen's Stairs. Beyond this and lining the waterfront are the Anchor Wharf Storehouse and buildings Nos 2 & 3. These buildings, including those largely obscured by trees - the Ropery, Hemp Houses, Spinning Room and Ropery Offices, Hatchelling House and Engine Room (whose chimney appears above the trees) - all belong to the 'heyday of the age of sail period' (1700-1820)

and have historic significance in terms of overall survival and completeness. This view also illustrates the historic relationship of the dockyard to the river – particularly at the Queen's Stairs, which was the ceremonial point of access to the dockyard during the age of sail. The bell tower of the Royal Dockyard Church (1820) is visible above the trees to the left of the Ropery. This section of the dockyard is particularly related to manufacturing and administrative functions, including newly developing forms of manufacturing technology.

This viewpoint location and other serial views from along the waterfront and from within the interior of the dockyard are highly sensitive to all new development proposals.

A major adverse feature of this view is Victoria Tower, which although situated to the south of Dock Road, nevertheless looms over the dockyard building complex in a discordant manner. Beyond Storehouse No 3, the protruding roofscape of Medway Council's headquarters is visible but does not disrupt the historic character of this section of waterfront – evidence that a carefully conceived and detailed contemporary building design can successfully enhance the character of the Historic Dockyard building complex and waterfront. The concrete flood defence wall that tops the earlier brick reverted river wall and the area of car parking in front of the Commissioner's House are less sympathetic to the historic character of the area.

Visible in the foreground is a 20th century tug and a contemporary landing stage lined with sailing craft. Although not of historic significance, they represent some of the character of a bustling river, evident in contemporary illustrations from the age of sail. (See R Dodd's 1789 view of the Royal Dockyard from Upnor [Key View 1A].)

The backdrop to this view is a fairly nondescript assemblage of buildings that make up the urban areas of Chatham

and Rochester. Adverse elements within this assemblage, somewhat masked by boats in the foreground, include the Staples building and Anchorage House. The riverfront area in the vicinity of the Staples building is known as Chatham Waterfront and is subject to a 2011 planning permission for extensive redevelopment. This prominent riverfront site is vital to the continued regeneration of central Chatham and its careful design will help mitigate the adverse waterfront features. Beyond Anchorage House sits the main Star Hill to Sun Pier Conservation Area, where the characteristics of a more traditional and historic river frontage come to the fore. Above this area on the ridgeline sits the University for the Creative Arts. It breaks the line of the wooded ridge uncomfortably but has historic significance as the site of a fort that formed part of the landward defences of the dockyard.

From the promontory of the Medway City Estate Peninsula at Chatham Ness sits a line of relatively low-rise office buildings that allow open views of Jackson's Field and the wooded ridge beyond. Beyond these office buildings, industrial uses of the waterfront are increasingly in evidence.

Visual Management Guidance

New development in the setting of Chatham Dockyard and its Defences should be of appropriate height, scale, massing and materials and should respect the setting of the dockyard. This area is subject to control by policies in The Historic Dockyard Chatham Conservation Management Plan.

Foreground and middle ground

This panorama, taken from the heart of the Historic Dockyard, is sensitive to development within the dockyard, and this is tightly controlled by policies within The Historic Dockyard Chatham Conservation Management

Plan. Preserving and enhancing the setting of the Historic Dockyard is equally important and development at the scale of Victoria Tower in such close proximity will not be permitted. It would be difficult to visually mitigate the impact of such a large building when viewed from within the dockyard, and a longer term aspiration for the removal of this building is therefore supported. Buildings of the quality, scale and careful design detailing of the Medway Council headquarters will be encouraged.

New development to the west of the river on Medway City Estate should be carefully controlled to ensure open views of the wooded ridgeline are retained and therefore an appreciation of the military significance of higher ground for landward defence of the dockyard is possible.

Background

Chatham Town Centre has been identified as a potential location for tall buildings and planning approval has been given for extensive redevelopment at the Chatham Waterfront site. Although there is a reasonable distance between the dockyard and the centre of Chatham, this area is sensitive to development impacts from this viewpoint.

This document should be studied in conjunction with other guidance documents including particularly the Gun Wharf Masterplan and A Building Height Policy. Whilst well-designed and carefully detailed tall buildings may be acceptable in this location, the impact of such buildings on the skyline and wooded backdrop should be given careful consideration within all new development proposals.

Anchorage House with its monolithic slab form and poor detailing should not be viewed as a good example of a tall building and neither should the heavy massing and poor detailing of the Staples Store. The lower rise historic development along the Lower High Street (Star Hill to Sun Pier) that fronts onto the river provides an appropriate and

sensitive backdrop in views from this viewpoint and the scale of this development is considered appropriate.

Management of the Viewing Location

This pier is used for recreational sailing craft. The location provides visitors with a good understanding of the integrity of the Historic Dockyard and its relationship with the river. Access to this area for visitors should be encouraged in order to appreciate the significance of this viewpoint.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.

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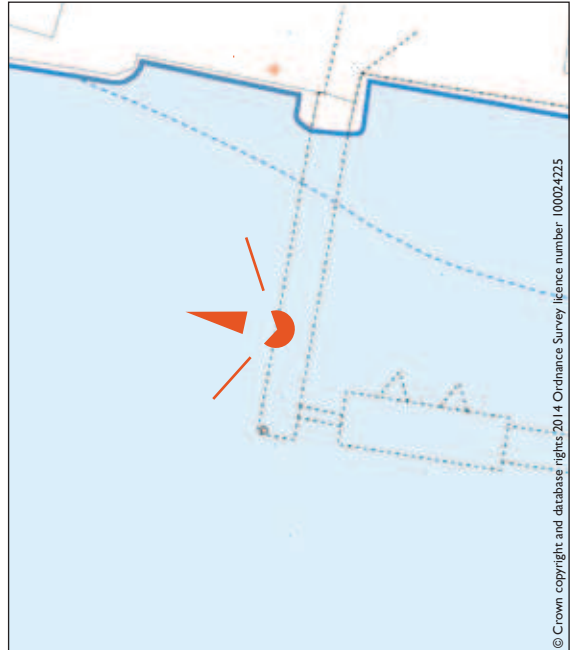
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Panorama from Viewing Point 4B

Viewing Location 4B Downstream from Thunderbolt Pier

OS co-ordinates: 575764, 169196



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Summary: Viewing Location 4B

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Location next to river.

Notable features of the view:

- Upnor Castle Ordnance Depot.
- Clear unobstructed visual relation between the dockyard and Upnor.
- No.3 Covered Slip.
- Wooded ridge backdrop to Upnor.
- Industrial waterfront uses.

Description of the View

This view is important due to its functional and historic relationship to Upnor Castle. It is one of the few places in the dockyard where the visual relationship is clear and unobstructed and would have been so historically. It also illustrates the connection of the dockyard to the river.

This viewpoint, looking north towards Upnor Reach, provides a broad sweeping view of the river that includes foreground views of the northern edge of the Historic Dockyard. The remainder of this view opens out towards the estuary with the wooded backdrop of Cockham Farm Ridge and the Upnors and Upnor Castle nesting along the shoreline below. Military and industrial land uses predominate on the western embankment around Whitewall Creek.

Significant buildings within the dockyard that appear within this view include the Scheduled and Grade I Listed No.3 Covered Slip – the largest surviving timber slip built for

the Royal Navy. In the immediate foreground sits the Listed No 1 Workhouse with Scheduled and Listed Nos 2, 3 and 4 Dry Dock. Although not clearly in view, these docks are evidenced by cranes, the masts of HMS Gannet and the caisson of No 2 Dry Dock (the current berth of HMS Cavalier). These structures are all historically significant, particularly in relation to the development of engineering and shipbuilding technology.

The woodland ridge should be considered an integral and significant component within this view. The implications are that this viewpoint location and other serial views from along the waterfront and from within the interior of the dockyard are highly sensitive to all new development proposals.

This view illustrates some of the bustling industrial character that would have been in evidence within this part of the dockyard during the period of international significance, and although the berthed ships and moored tug are not contemporary with this period, they help to reinforce the historic character of the area. With the tide out, the brick revetted river wall with timber bulwarks is a strong and evocative feature. Less sympathetic to the character of this area are the section of galvanised guard rail and concrete flood defence wall that tops the brick revetted wall.

Beyond the edge of the dockyard the background view takes on a more rural and tranquil character with the Blue Crane on St Mary's Island (see Viewpoint 2) on the eastern shore of the river merging into the wooded backdrop of Cockham Farm Ridge. Along the shoreline and towards the centre of the view, Lower Upnor, Upnor Castle and Upper Upnor nestle comfortably into the landscape. Beyond this the landscape remains soft and tranquil with the continuation of the strong wooded ridge, but with scattered utilitarian Ministry of Defence buildings introducing a discordant note. At the southern mouth of Whitewall Creek, the industrial

uses of the sand and gravel works are the most intrusive within this overall view. Although they represent the sort of industrial activities that have characterised the river in more recent times, illustrative evidence suggests that this area was still open marshland in the early part of the nineteenth century.

Visual Management Guidance

New development in the setting of Chatham Dockyard and its Defences should be of appropriate height, scale, massing and materials. This area is subject to control by policies in The Historic Dockyard Chatham Conservation Management Plan.

Foreground and middle ground

This panorama, taken from the heart of the Historic Dockyard, is sensitive to development within the dockyard and this is tightly controlled by policies within The Historic Dockyard Chatham Conservation Management Plan. Preserving and enhancing the setting of the Historic Dockyard and its defences is equally important, and the area of land behind the Covered Slips, known as the Interface Land is the subject of an SPD. Development of the Interface Land should pay regard to existing planning policy guidance, and the impact on views of this area from this viewpoint (although largely screened by the mass of the Covered Slips and No 1 Workbase) should be assessed as part of any planning application.

The sand and gravel works on the adjacent bank of the river have been assessed as unsympathetic to the historic character and setting of the dockyard. However this area will not return to historic marshland and the current land use has planning approval. A longer term aspiration would be to see a land use on this site that is more sympathetic to the character of the adjacent bank of the river and its historical

context. A public open space with a river walk would be the highest aspiration.

The central part of the fore and middle ground within this view is taken up by water. No permanent structures would therefore be anticipated within this area. An aspiration for more frequent and varied water based activities would further enhance this view and increase respect for its historic character as a vibrant river of the age of sail.

Background

The background area of this view already has a high level of protection. Upper Upnor is a Conservation Area and includes a number of important Listed Buildings. Upnor Castle is Scheduled and Grade I Listed. The woodland ridge (Tower Hill to Cockham Wood) has national protection as a Site of Special Scientific Interest and is locally protected as countryside (see Medway Landscape Character Assessment 2011). The Ministry of Defence land to the south of Upnor is redundant and in need of a sensitive reuse. Preserving the green and open character of this landscape should be considered in future development proposals. Softening and screening modern Ministry of Defence buildings in this area should be an aspiration.

Management of the Viewing Location

This pier is used for recreational sailing craft. The location provides visitors with a good understanding of the integrity of the Historic Dockyard and its relationship with the river. Access to this area for visitors should be encouraged in order to appreciate the significance of this viewpoint.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.

5 Fort Pitt Hill

Fort Pitt was constructed during the Napoleonic wars at the start of the 19th century as part of the fortifications intended to protect the dockyard from landward attack. From this location on the high ground marking the boundary between Chatham and Rochester, it could coordinate its fire with Fort Amherst and deny an invading army this strategic vantage point.

Although completed in 1819, it had already come to be used as a hospital for invalid soldiers by 1828 and was no longer in defensive use. With the majority of its buildings now demolished, it does not have the required degree of integrity or authenticity to be considered a core element of the Chatham Dockyard and its Defences site. It is a Scheduled Monument.

There is one viewing location at Fort Pitt Hill, from Victoria Gardens looking north east. This is a popular and well-used public space that allows a broad panoramic view providing a means of understanding the spatial relationship and visual connections between key elements of the dockyard complex and the historic settlements that supported it. This is also identified as a key view in the Brompton Lines Conservation Area Appraisal.



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Panorama from Viewing Point 5

Viewing Location 5 From Fort Pitt Hill/Victoria Gardens looking north east.

OS co-ordinates: 575222, 167699



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Summary: Viewing Location 5

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Location next to the river.
- Juxtaposition of high ground adjacent to river.
- Fort Amherst and the Chatham Lines occupy the high ground to defend the dockyard.

Notable features of the view:

- Natural topography underpinning historic significance.
- Grade I Listed Covered Slips, Ropery and the Anchor Wharf Storehouses on the river edge of the dockyard.
- Fort Amherst and the Great Lines Field of Fire.

Intrusive features:

- Anchorage House.
- Mountbatten House.
- Victoria Tower.
- CCTV columns.

Description of the View

From this viewing point it is possible to see the river, Upnor, the dockyard, Brompton, the former Chatham infantry barracks (now Kitchener Barracks), Fort Amherst and the Great Lines. This view shows the scale and variety of surviving historic fabric and their spatial inter-relationships and best exemplifies the importance of the natural topography of this part of the Medway valley in underpinning historic significance.

The centre of this view is occupied by the buildings on the north side of New Road facing Fort Pitt Hill. Whilst these occupy high ground they are predominantly three storeys high so do not obstruct the appreciation of the significance of key elements of the view beyond. To the left of centre in the middle distance the Grade I Listed Covered Slips are the northernmost dockyard buildings visible on the river frontage. In front of these are the Anchor Wharf Storehouses. Moving further to the right the tall slab block of Anchorage House located on Chatham Waterfront breaks the visual connection between the dockyard and the barracks, the civilian settlement of Brompton and the Great Lines. The visual intrusion of Victoria Tower also detracts from this section of the view.

Visible immediately behind and to the left of the tallest and most intrusive element of the Anchorage House building is the tower of the Grade II Listed St Mary's church, an important landmark on the high ground overlooking Gun Wharf. It was founded before AD 905, and repeatedly rebuilt. It remains a significant reminder of the pre-military origins of Chatham. (In the 18th century land was compulsorily purchased to build the Chatham Lines and the demolition of many buildings resulted in Chatham town centre moving southwards.)



Roffe 1829 'Chatham Dockyard from Fort Pitt'. (c) Medway Archives. Note Barrier Ditch and openness of landscape of Lines.

To the left of St Mary's Church, the four storey 1930s Kitchener Barracks block provides a foreground to the view of Brompton. The barracks were originally constructed in 1757 and whilst the original plan form of the site survives, most of the original buildings have been demolished. From this point moving to the left, it is relatively easy to appreciate the steeply rising topography up to the highest points of Fort Amherst and the open Field of Fire above the rooftops of Chatham. The brick revetments of Prince William's and Belvedere Batteries are clearly visible at the highest point of Fort Amherst as is 20th century military housing development that encroaches on the open space of the Inner Lines behind the Fort.

The wide expanse of the Great Lines can be well appreciated in this view in spite of the visual intrusion of Mountbatten House, the slab block that rises above the Pentagon Centre in central Chatham, and some mature trees in the foreground. The view of the river and the low lying nature of development on the Frindsbury peninsula are

important aspects of the setting of the dockyard that are visible in the left hand side of the view.

Visual Management Guidance

Foreground and Middle Ground

This panorama is sensitive to development in the foreground and middle ground. The fringes of Victoria Gardens immediately in front of the viewing location are marked by a number of tall posts supporting lighting, CCTV and other equipment that creates visual clutter. Future consideration should be given to rationalising the number of posts or re-locating them.

It might be appropriate to consider the long term removal of trees in Victoria Gardens that obstruct the view to the Chatham Naval Memorial on the ridgeline.

Any re-development of buildings on New Road should not exceed three storeys. Opportunities should be explored to remove or otherwise mitigate the visual impact of Anchorage House and Mountbatten House in any future redevelopment proposals for these sites.

Background

To the left side of the view the height of buildings on Medway City Estate should not exceed that of existing buildings.

Opportunities should be explored to remove or otherwise mitigate the visual impact of Victoria Tower in any future redevelopment proposals for this site.

The eastern riverbank is subject to control policies in the Brompton Lines Conservation Area Appraisal.

Future redevelopment proposals for the Kitchener Barracks site should not break the ridgeline. Any proposals must respond positively to the special character of the Brompton Lines Conservation Area and the contribution that unlisted buildings make to this. The removal of trees and hedges that encroach upon the open spaces of the Inner Lines and Great Lines should be considered where they are not an important element of setting. The exception to this is where trees on the ridgeline screen existing development that would be more harmful to an appreciation of the historic function of the Lines.

Management of the Viewing Location

The viewing location is well managed. An up-to-date plaque could enhance the viewing experience.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.

6 Sun Pier

The present Sun Pier structure does not date from the period of international significance but there would have been a number of piers and jetties along the river bank in active commercial and civil use at that time, many more than in the present day. Newspaper accounts exist of a disaster at Sun Pier on 26th July, 1885 when part of the pier collapsed causing 70 or 80 people who were waiting to board a steamboat to fall into the river.

This historic event points both to the very well-used and public nature of the pier and the fact that there is likely to have been a pier or jetty structure in place at this point on the river bank during the period of international significance. A view from the river itself, is also characteristic of views from the many ships that would have been moored in Chatham Reach during the period. It also represents an historically important connection to the active commercial and civil use of the river.

Sun Pier is a popular public place because of the access to the riverfront and views that it affords. There is one viewing location at Sun Pier.



Illustrated Police News 1885 © British Library.



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Panorama from Viewing Point 6

Viewing Location 6
From Sun Pier looking east towards Fort Amherst and the Chatham Lines.
 OS co-ordinates: 575481, 168124



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Summary: Viewing Location 6

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Location next to the river.
- Juxtaposition of high ground adjacent to river.
- Fort Amherst and the Chatham Lines occupy the high ground to defend the dockyard.

Notable features of the view:

- Wooded ridgeline backdrop.
- Fort Amherst.
- Old Gun Wharf.
- St Mary's Church.
- Rising landform from river level.

Intrusive features of the view:

- Rat's Bay Pumping Station.
- Mountbatten House.
- Victoria Tower.

Description of the View

This view from river level demonstrates the spatial relationship between the river and waterfront location of the dockyard, the civilian settlement of Chatham in the narrow valley between two ridgelines and the sharply rising topography behind these that provided the ideal location for the dockyard's defences. It is important to developing an appreciation of how the natural setting of the dockyard contributed to its historic significance that its location can be clearly perceived in relation to the river; the town and the green escarpment behind it.

Fort Amherst and Old Gun Wharf occupy the centre of this view. The perception of the scale and role of the dockyard's defences depends on being able to see the landform from which they rise from river level. The low lying nature of the Gun Wharf complex with St Mary's Church above and the green backdrop of the Chatham Lines is a key characteristic.

The ridgeline is sculpted and defined by the fortifications of Fort Amherst. The brick revetments of Belvedere Battery are clearly visible at its highest point before the line of the fortifications drops down to its left in this view to be terminated visually by the chalk cliff beneath Cornwalls Battery.

Below the Fort, the buildings of Old Gun Wharf in the Riverside Gardens area are highly significant historic features of the view. This is the location of the original Tudor Dockyard marking the early origins of naval shipbuilding in Medway. Its surviving significance is as a partially complete 18th and 19th century ordnance complex where cannons and other ordnance were stored. The principal surviving buildings are the Carpenter's Shop, the Machine Shop (now Chatham Library) and the Former Storekeeper's House (now the Command House pub) visible on the riverfront just below the landmark of St Mary's Church.

The tower of the Grade II Listed St Mary's Church is an important landmark on the high ground overlooking Gun Wharf. It was founded before AD 905, last rebuilt between 1884-1903, and remains a significant reminder of the pre-military origins of Chatham. (In the 18th century land was compulsorily purchased to build the Chatham Lines and the demolition of many buildings resulted in Chatham town centre moving southwards).

In this view, the ridgeline of trees marking the Chatham Lines is broken only by the tower of St Mary's Church and the 1960s Victoria Tower. This is a particularly incongruous element of the view, positioned directly between Old Gun Wharf, New Gun Wharf and the dockyard. The late

1970s Medway Council headquarters, formerly the Lloyd's headquarters Building, by Arup Associates is considered a sympathetic twentieth century building due to the way that its scale, materials and horizontal emphasis relate to the important heritage assets of Anchor Wharf at the southern end of the dockyard. In the far left of the view the buildings of Anchor Wharf and the Covered Slips are visible and, in the distance on the opposite side of the river, Upnor Castle. Whilst small and not very distinct in this view, this is highly significant in the way that it allows an appreciation of the spatial relationships between many key elements of Chatham Dockyard and its Defences.



View of Chatham from Sun Pier circa 1864 © National Maritime Museum.

To the right of Fort Amherst the appearance of the scarp slope and ridge is softened by tree cover before the large modern slab block of Mountbatten House in central Chatham looms into view. In height and scale this is an incongruous element within this urban landscape. On the ridgeline to the left of Mountbatten House the column of the Chatham Naval Memorial is visible, erected on the Great Lines in 1922.

Between Mountbatten House and the riverfront the roof of the carefully designed new bus interchange is visible to the right of the red brick Rats Bay Pumping Station that dominates the centre right of the view. There is potential for this to be replaced by a smaller and more efficient structure with much less visual impact on the important spatial relationships that can be appreciated in this view. The culturally significant landmark of the Grade II Listed Brook Theatre/Town Hall can be glimpsed just above the pumping station.

The riverfront site to the right of the pumping station as far as the right hand side of this view is known as Chatham Waterfront and is subject to a 2011 planning permission for extensive redevelopment. This prominent riverfront site is vital to the continued regeneration of central Chatham.

Visual Management Guidance

Foreground and Middle Ground

This panorama is not particularly sensitive to development in the foreground as this is largely occupied by the river.

When considering development within the zone between Fort Amherst and the river a clear historic constraint on the height of any new proposed structures is the designed fields of fire onto the river from the gun batteries of the Fort. These have informed the current consented proposals

for Chatham Waterfront and should also guide any future development proposals in this area. The opportunity to replace the Rats Bay Pumping Station with a structure more appropriate to its setting should be pursued as a long-term aspiration.

Background

Opportunities should be explored to remove or otherwise mitigate the visual impact of Mountbatten House and Victoria Tower in any future redevelopment proposals for these sites. The buildings occupying the Kitchener Barracks site are not currently visible in this view. Future redevelopment proposals for the site should not break the ridgeline.

Parts of the area are subject to control by policies in the Brompton Lines Conservation Area Appraisal.

All proposals within and around the Brompton Lines Conservation Area must respond positively to its special character. The removal of trees and hedges that encroach upon the open spaces of the Inner Lines and Great Lines should be considered where they are not an important element of setting. The exception to this is where trees on the ridgeline screen existing development that would be more harmful to an appreciation of the historic function of the Lines.

Management of the Viewing Location

Public access to Sun Pier should be maintained. An interpretation panel could enhance the viewing experience.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.

7 Fort Amherst

Fort Amherst is a Scheduled Monument within the Brompton Lines Conservation Area and is the most complete Napoleonic fortification in Britain. It occupies a highly prominent position at the southern end of the defensive lines on the escarpment that rises high above Chatham and the Chatham Reach bend of the river Medway. Its primary purpose was the defence of the naval dockyard and it was developed as a stronghold to command the river and the approach from the south.

The significance of the views from Fort Amherst has been identified in the Brompton Lines Conservation Area Appraisal. The heritage significance of these views lies in the fact that they relate to historic gun positions and lines of fire, allowing an appreciation of how the Fort was designed to work. They also now offer well-appreciated panoramic viewpoints across the river Medway to historic Rochester and over Chatham, which grew up in conjunction with the dockyard.

There are four viewing locations at Fort Amherst:

- 7A From Cornwallis Battery to Rochester and the former site of Fort Pitt;
- 7B From Cornwallis Battery down the Barrier Ditch;
- 7C From Belvedere Battery to Fort Pitt;
- 7D From Prince William's Battery to the Great Lines.

It should be noted that while the four viewing locations selected at Fort Amherst are intended to provide an overview of the key views that are possible from the Fort, in some cases additional viewpoints might need to be considered to reflect the complexity of the Fort and its multiple gun positions which each had a designed field of fire.



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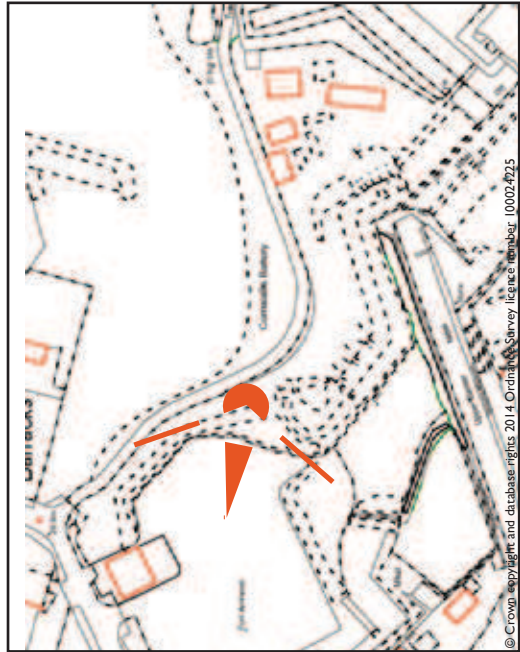
Panorama from Viewing Point 7A

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Viewing Location 7A
Fort Amherst: From Cornwallis Battery to
Rochester and the former site of Fort Pitt.
 OS co-ordinates: 575902, 168330



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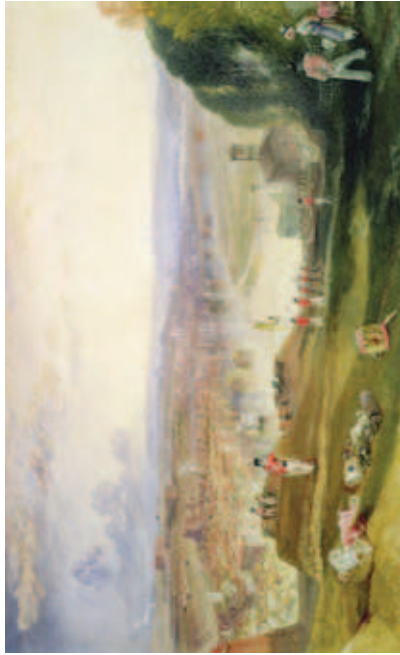
Summary: Viewing Location 7A

Attributes demonstrated:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Location next to the river.

Notable features of the view:

- Lines of fire towards the two drop bridges.
- Grade II Listed St Mary's Church, site of medieval Chatham.
- Rochester Castle and Cathedral.
- Visual connection between the defences, Gun Wharf and Chatham Reach bend of river.
- Roofs of Grade I Listed Ropery and Anchor Wharf Storehouses at the dockyard.
- Kitchener Barracks and in particular its Grade II Listed Ordnance Store.



Chatham, viewed from the heights of Fort Amherst. 1832. J.M.W. Turner. © Tate London, 2013.

Description of the View

The Upper Cornwallis Battery is the eastern section of Fort Amherst. It runs from the head of the Barrier Ditch down the modern access track towards the entrance of Kitchener Barracks. The gun batteries positioned on it were intended to fire across the ditch - i.e. over the cayevard - towards the drop bridges.

JMW Turner's study of 1832 shows Cornwallis Battery and the view westwards from it after the final phase of improvement to the Chatham Lines in the 1820s.

In the centre foreground of the present day view is the car park at the main public entrance to the Fort. Just above this is the tower of the Grade II Listed St Mary's Church – an important landmark on the high ground overlooking Gun Wharf. It was founded before AD 905, and rebuilt several times most recently between 1884-1903. It remains a significant reminder of the pre-military origins of Chatham. (In the 18th century land was compulsorily purchased to build the Chatham Lines requiring the demolition of many

buildings and causing Chatham to move southwards to its present location.)

To the left of the church is the great bend of the River Medway at Chatham Reach with Rochester and the Frindsbury peninsula on either bank. The view to Rochester Castle on the higher ground and the Cathedral immediately to the east of the High Street is important.

On the river bank below Rochester the cleared land of Rochester Riverside is clearly visible. This first phase of the redevelopment of this area is conspicuous as the buildings are predominantly finished in a pale render that contrasts with the trees and more earthy tones of the building materials that characterise its backdrop. The redevelopment of this area is subject to a development brief that controls the height and scale of buildings in a manner that safeguards views from the Fort to Rochester's key landmarks.

In Turner's sketch, as is typical of paintings of the river from the 18th and 19th century, a number of large ships are very prominent, in contrast with the less active use of the river today. The Frindsbury peninsula is depicted as riverside marshland. It is now developed for office and industrial uses. Late 19th and early 20th century images of the Frindsbury Peninsula show that the area was industrialised, including tall structures such as chimneys. The buildings of Medway City Estate that currently occupy this area are relatively low rise allowing views across to the river behind and Rochester beyond. This low-lying character is closer to that of the peninsula during the period of international significance.

Much of the view of the river edge at Chatham and Old Gun Wharf is obscured by a large tree from this viewing point. It also blocks the important sight line to Fort Pitt and the view of the large modern development of Anchorage House. To the right of St Mary's Church lies the site of New Gun Wharf now occupied by the late 1970s Medway Council

headquarters. This is generally considered one of the more sympathetic of Chatham's twentieth century buildings due mainly to the way that it relates to the important heritage assets of Anchor Wharf at the southern end of the historic dockyard.

There is an important visual connection from this point of the Fort to the roofs of the Anchor Wharf Storehouses and Roperly at the southern end of the dockyard. This is an exceptionally important collection of Grade I Listed Buildings. The background to this is the river and beyond that the silos and other light industrial buildings of Medway City Estate. In the foreground some large trees are present within the grounds of Fort Amherst.

In front of the Anchor Wharf Storehouses the hipped roof of the main Kitchener Barracks block is visible, constructed in the mid 20th century. The 1806 Grade II Listed Ordnance Store at Kitchener Barracks and sections of its boundary wall reflect the period of international significance.

Visual Management Guidance

The spatial relationship between the Fort, Fort Pitt and historic buildings in the view, and the quality of design is of particular importance when considering the likely impact a development proposal will have on views out from the defences.

New development should respect the setting of the Fort and should not be to the further detriment of its original unobstructed field of fire.

Foreground and Middle Ground

The panorama is sensitive to large-scale development in the foreground and middle ground. The broad sweep of the river should be visible in the panorama. The height of

buildings on Medway City Estate should not exceed that of existing buildings. It is important to be able to see the bend of the river beyond the Frindsbury peninsula.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.

The cars and materials of the car park at the entrance to the Fort detract from an understanding of its historic significance. Suitable new uses should be found for St Mary's Church and the Ordnance Store at Kitchener Barracks, as these important historic buildings are currently empty.

While the tree belt between the Fort and Amherst Hill has evolved to be an important element of setting, other individual trees are not and their removal should be given consideration to allow a greater appreciation of the historic function of the Fort. This is a good example of how significance may be enhanced through re-introducing historic views and fields of fire.

Background

Future phases of development of Rochester Riverside should give greater consideration to the selection of materials to ensure a more harmonious relationship with its historic backdrop. Development should preserve or enhance the viewer's ability to recognise Rochester Castle and Cathedral and appreciate their historic significance.

Management of the Viewing Location

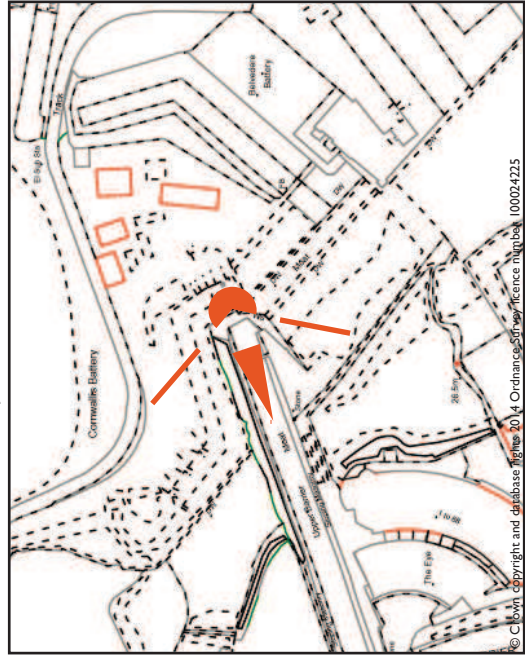
The brick revetments should be conserved and maintained free of any vegetation. Invasive vegetation growth detracts from the aesthetic quality of the brickwork and damages it, reduces the monumental element of the structures and obstructs views out from the Fort that allow an appreciation of its historic function. Tree growth in the immediate foreground of the view has the potential to reduce the quality of the view, and should be managed to ensure visibility.



Panorama from Viewing Point 7B

Viewing Location 7B
Fort Amherst: From Cornwallis Battery Down
Great Barrier Ditch

OS co-ordinates: 575977, 168311



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Description of the View

This view looks down the Barrier Ditch from the gun emplacements at its head on Cornwallis Battery.

The present Barrier Ditch was the result of major re-planning of the fort in 1803. It was developed to control the roads leading to the dockyard. It is a brick revetted ditch in the upper areas of the fort and this became a water-filled ditch at Gun Wharf.

The impressive scale of the high brick revetments on either side of the ditch are important in giving a sense of the intent of the military architecture. The visual connection between the defences and the river is an important feature of this view in allowing an appreciation of its historic function. Guns sited at Fort Amherst had designed fields of fire onto the river, over the roofs of the Ordnance Buildings at Gun Wharf. This was a clear constraint on the height of structures on Gun Wharf.

Summary: Viewing Location 7B

Attributes demonstrated:

- Fort Amherst and the Chatham Lines occupy the high ground to defend the dockyard.
- Notable features of the view:
- Impressive scale of the high brick revetments and two bridges on either side of ditch.
 - The designed fields of fire onto the river, over the roofs of the Ordnance Buildings at Gun Wharf.
 - 18th and 19th century ordnance complex with former Machine Shop visible.

Intrusive features:

- Riverside One constructed in the ditch wall.

Beyond the Dock Road bridge the Council-owned Riverside One building is constructed in the former ditch wall. This is a highly intrusive and harmful structure that detracts from the appreciation of the historic function of the ditch and its designed sight line and field of fire.

Beyond this is the site of Old Gun Wharf, the location of the original Tudor Dockyard. Much of its visible significance lies in the remains of the 18th and 19th century ordnance complex where cannons and other ordnance were stored. The long low white, grey roofed building to the right of Riverside One is the former Machine Shop (now Chatham Library). The below ground archaeology is of national significance due to its combination of the location of medieval Chatham, the site of the first Tudor Dockyard and its ordnance use.

To the left of the ditch, The Eye, a modern residential development protrudes into the view, detracting from the impressive sense of scale of the ditch and, through the introduction of alien materials and detailing, diluting its character.

Visual Management Guidance

The spatial relationship between the ditch and the river in the view and the quality of design is of particular importance when considering the likely impact a development proposal will have on views of the ditch and the river and the viewer's ability to appreciate the site's international significance.

New development should respect the setting of the Barrier Ditch and its designed field of fire. Proposals must respect the policies of both the Gun Wharf Masterplan and the Brompton Lines Conservation Area Appraisal.



Barrier Ditch, circa 1870 © Fort-Amherst.

Foreground and Middle Ground

The Council-owned Riverside One building is constructed in the former ditch wall but as the Brompton Conservation Area Appraisal (p56-57) notes, the wall remains substantially intact and capable of reinstatement. Discussions are progressing to remove the Riverside One building (replacing its functions elsewhere) and to restore those portions of the ditch that have been built over. This provides an excellent opportunity to transform the visitor experience, placing an understanding of the area's globally significant heritage at the centre of this important riverside area at the heart of Chatham.

When considering the future of the Gun Wharf area a clear historic constraint on the height of any new proposed structures is the designed fields of fire onto the river from the gun batteries at the top of the Barrier Ditch and elsewhere within the fort.

It is not practical to propose the removal of The Eye residential development in the short to medium term but opportunities might be explored to reduce the visual impact of the development in line with routine maintenance and upgrading of the building – in particular to the form and materials of its roof.

Background

The river should continue to form the background to this view and no development should be allowed in the riverfront area that might impinge on this important visual relationship.

Management of the Viewing Location

The brick revetments should be conserved and maintained free of any vegetation. Invasive vegetation growth detracts from the aesthetic quality of the brickwork and damages it, reduces the monumental element of the structures and obstructs views out from the fort that allow an appreciation of its historic function.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.



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Panorama from Viewing Point 7C

Viewing Location 7C
Fort Amherst: From Belvedere Battery to Fort Pitt

OS co-ordinates 576009, 168257



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Summary: Viewing Location 7C

Attributes demonstrated:

- Fort Amherst and the Chatham Lines occupy the high ground to defend the dockyard.
- Juxtaposition of high ground adjacent to river.

Notable features of the view:

- Visual connection to Fort Pitt.
- Rochester Castle and Cathedral.
- Civilian settlement in valley bottom as defences occupy higher ground.
- Grade II* Listed church of St John the Divine.
- River edge and site of Old Gun Wharf.
- Visual connection between the defences and Chatham Reach bend of river.
- The tower of the Grade II Listed Town Hall (now the Brook Theatre).

Intrusive features:

- Mountbatten House.
- Anchorage House.



Chatham View c1860, © Royal Engineers Museum, Library and Archive.

Description of the View

The name 'Belvedere' Battery indicates the reasons for its selection for military purposes as a good viewing point. By comparison with other viewpoints from Fort Amherst this position gives the most unobstructed panorama combined with an impressive sense of the Fort's dominance of the river and town below.

In the middle ground at the centre of the view is The Paddock area of central Chatham whilst Fort Pitt Hill occupies the high ground in the background. From this high point the green ridgeline drops down to the Rochester river crossing close to which Rochester Castle keep and Cathedral are important landmarks. The river occupies all of the centre right of the view.

To the left of centre Chatham extends in to the distance demonstrating the historic expansion of the civilian settlement in the valley bottom once military uses had



Chatham & Rochester c1860. © Royal Engineers Museum, Library and Archive.

come to dominate the higher ground. The incongruous scale and development form of the modern slab blocks of Mountbatten House (left of centre) and to a lesser degree Anchorage House (right of centre) are particularly apparent in this view.

The most significant structure (seen in the first c1860 photograph of Chatham from what is likely to be a similar viewpoint to this) is the Grade II* Listed church of St John the Divine. This forms a distinctive landmark in Chatham on the axis of Military Road.

In this view the church is dwarfed by the 12 storey brick and concrete slab of Mountbatten House (1971-6). The Pentagon Centre extends from beneath this block along The Brook, where an array of columns support the now defunct bus terminal with surface parking above and a large multi-storey car park behind.

The new bus terminal close to the waterfront is more sympathetic to the prevailing scale of Chatham and its open riverside setting. Behind this, Anchorage House looms above the riverfront in stark contrast to the fine grained character of the Star Hill to Sun Pier Conservation Area in which it lies. The quality of the townscape between the bus interchange and Anchorage House is poor, comprising a utilitarian pumping station, a retail warehouse and surface car parking.

Sun Pier indicates the historically important connection to the active use of the river front that is so apparent in the varied range of piers and jetties in the second c1860 photograph. This photo also illustrates that the Frindsbury Peninsula remained undeveloped marshland until late in the nineteenth century.

A final landmark of note in the foreground of this view is the green domed tall tower of the Grade II Listed Town Hall (now the Brook Theatre) constructed from 1898-9 at the northern end of Military Road.

Visual Management Guidance

New development should respect the setting of the Fort and should not be to the further detriment of its original unobstructed fields of fire.

Foreground and Middle Ground

The panorama is sensitive to large-scale development in the foreground and middle ground. The river should remain visible in the panorama. Opportunities should be explored to remove or otherwise mitigate the visual impact of the slab block of Mountbatten House in any future redevelopment of the Pentagon site.

Background

Development should preserve or enhance the viewer's ability to see Fort Pitt and appreciate its historic significance. Opportunities should be explored to remove or otherwise mitigate the visual impact of the slab block of Anchorage House in any future redevelopment of this site.

Management of the Viewing Location

The brick revetments should be conserved and maintained free of any vegetation. Invasive vegetation growth obstructs views out from the Fort that allow an appreciation of its historic function. An up-to-date plaque could enhance the viewing experience.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.

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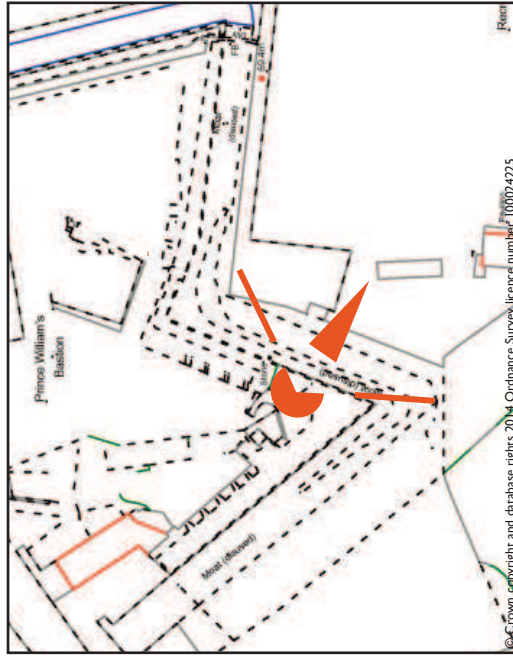
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Panorama from Viewing Point 7D

Viewing Location 7D
Fort Amherst: From Prince William's Bastion to the Great Lines

OS co-ordinates: 576127, 168193



Summary: Viewing Location 7D

Attributes demonstrated:

- Fort Amherst and the Chatham Lines relate to the exterior open areas of the Great Lines.

Key features of the view:

- Open character of the Field of Fire, allowing the function of the defences to be understood.
- Chatham Naval Memorial.

Description of the View

Prince William's Bastion and specifically the Saluting Battery forms the highest part of Fort Amherst. It is not publicly accessible at present but there are plans to continue the expansion of public access to this part of the fort. Access is for the time being by prior arrangement through the fort's visitor centre.

Whilst some of the fort's original unobstructed field of fire has been obscured, certain views remain relatively open, allowing its function to be clearly understood. This viewing location on Prince William's Battery is a view that retains a greater degree of openness.

An open recreation ground occupies the fore and middle ground of the view. This is enclosed by a hedge beyond which distant views are largely obscured by tree growth. Buildings and structures visible in the middle ground are few and include single storey sports pavilions, the school hall of

Brompton Westbrook Primary (left of centre) and to the south-east (right of centre) the columnar Chatham Naval Memorial, erected on the Great Lines in 1922.

Gaps in the tree belt, particularly to the centre right of the panorama, allow glimpses of the built edge of the Great Lines. As the Royal Navy Dockyard expanded in the 19th century and the associated demand for worker housing grew, Gillingham was substantially developed on the far side of the open area of the Great Lines. Therefore development in the background of this view, on the far side of the open space, and including the Medway Maritime Hospital does not affect the historic significance of this open space.

Visual Management Guidance

Further development in this view could detract from the significance of the fort and therefore early pre-application discussions with Medway Council (and particularly English Heritage) are recommended for all proposals seeking to develop the existing buildings and structures.

Proposals for new buildings and structures within the foreground and middle ground of the view will not be permitted.

Foreground and Middle Ground

It is likely that any development in the open area of the Great Lines would cause harm to its significance by failing to preserve its character and historic relationship with the fort.

The removal of trees and hedges that encroach upon and fragment the open space of the Great Lines should be considered as in most cases they are not an important element of setting. The exception to this is where tree belts screen existing development, the revealing of which

would be more harmful to an appreciation of the historic function of the fort. Opportunities should be explored to replace utilitarian fences and boundaries with more visually permeable alternatives.

Background

New buildings in the background of the view must respect historic significance. Change may occur in this backdrop if it is carefully designed and of small scale.

Management of the Viewing Location

Future development proposals should ensure the creation of public access to this viewing location. Tree growth in the immediate foreground of the view has the potential to reduce the quality of the view, and should be managed appropriately.

Early-stage pre-application discussions with Medway Council and English Heritage are recommended for all relevant proposals.



Part III - Assessment of Development Proposals

Introduction

Part III focuses on the assessment of the impact of a specific development proposal on the key views identified and described in Part II. It is concerned with assessing how a development may affect the ability to appreciate the international significance of Chatham Dockyard and its Defences.

Responsibility for undertaking this assessment lies with the developer. They should nonetheless consult at an early stage with Medway Council and, potentially, English Heritage to agree the scope of the assessment. This assessment method applies equally to any views that are considered to be important in relation to any specific development proposal, in addition to the key views.

This five step approach illustrated in the diagram opposite is based upon the English Heritage guidance set out in *Seeing History in The View* (May 2011). This in turn follows Landscape Institute Guidelines on Landscape and Visual Impact Assessment (GLVIA) – the recognised method for formal views analysis where there are complex issues involving views in the assessment of setting.

It should be noted that *Seeing History in The View* is currently being revised to reflect changes resulting from the introduction of the National Planning Policy Framework (NPPF) and other Government initiatives and to incorporate new information and advice based on recent case law and Inquiry decisions. A third edition of the Landscape Institute Guidelines on Landscape and Visual Impact Assessment has also been released (2013) which modifies the recognised method for formal views analysis. Therefore, the assessment method described

here will also be subject to review following the publication of the revised English Heritage guidance.

Links with Environmental Impact Assessment

Whilst there is currently no formal guidance on how to assess effects on cultural heritage within Environmental Impact Assessments (EIA), in Landscape Visual Impact Assessment the two principal criteria used are scale or magnitude of impact and the sensitivity of the receptor. The receptor in this case may be taken to mean individual heritage assets or the view as a whole. These two criteria are combined in step 4 to come to a judgement about significance of effect.

This assessment method is linked to the EIA procedure that will also apply to some development proposals. The information generated should be incorporated into a broader heritage impact assessment if required as part of an EIA.

Medway Council will determine whether an EIA is necessary. Circumstances in which it is deemed necessary may relate to the physical scale or complexity of the proposal, visual intrusion and/or impact on heritage or if the development is in, or partly in Chatham Dockyard and its Defences or its environs.



Diagram showing steps in assessing the impact of a specific development proposal on key views

STEP 1 Identifying the importance of the assets and the view

The assessor must first identify the resource or receptor that may be affected by the proposed development. The two types of resource or receptor are the individual heritage assets identified within the view and the value of the view as a whole. This means that the assessor must establish an understanding of the zone of visual influence of the development in order to identify which heritage assets are likely to be affected and which key views are of relevance.

Table 1 in Appendix 6 explains how both the value of the individual heritage assets identified within the view may be determined and the value of the view as a whole. However, in most cases the asset identified in the key views in section 2 will be of international significance and the viewing places are identified as the best places from which to view the asset. Therefore the value and importance in all cases will be high. Where additional views are to be assessed the importance of assets and the view as a whole should be identified by reference to Table 1.

STEP 2 Assessing the magnitude of the impact on individual heritage assets

Table 2 in Appendix 6 sets out a seven point scale, from high beneficial to high adverse, to assist in assessing the magnitude of impact of a proposal on individual heritage assets. The assessor is tasked with considering the extent to which the identified heritage significance may be changed or affected by the location or design of the proposed development. Specific aspects of design such as scale, mass, silhouette, and reflectivity may be particularly relevant.

Impacts may be beneficial, if the proposed changes will enhance heritage values or the ability to appreciate them, or adverse, if they fail to sustain heritage values or impair their appreciation. Occasionally, a development may involve the removal of an existing building that interferes with a heritage asset resulting in a beneficial impact. Use of the seven point scale to assess the level of impact helps to ensure a degree of reasoned justification of the assessment.

In assessing the magnitude of impact it may sometimes be important to consider a view as it would be experienced by a person moving through the viewing area, or to take account of seasonal differences, or how the view at night will be affected as well as by day.

The box on the right provides a (non-exhaustive) check-list of the potential aspects of a development affecting setting. They help to elucidate the implications of the development for the significance of the heritage asset. Only a limited selection of these is likely to be important in relation to any particular development.

STEP 3 Assessing the magnitude of the cumulative impact of proposals on heritage

The purpose of cumulative assessment, as required under the EU Directive on Environmental Impact Assessments, is to identify impacts that are the result of introducing the development into the view in combination with other existing and proposed developments. The combined impact may be more or less than the sum of the individual developments and its magnitude should be described according to Table 3 in Appendix 6.

CHECKLIST OF POTENTIAL ASPECTS OF A DEVELOPMENT AFFECTING SETTING

Location and siting of development

- Proximity to asset
- Extent
- Position in relation to landform
- Degree to which location will physically or visually isolate asset
- Position in relation to key views

The form and appearance of the development

- Prominence, dominance or conspicuousness
- Competition with or distraction from the asset
- Dimensions, scale and massing
- Proportions
- Visual permeability (extent to which it can be seen through)
- Materials (texture, colour, reflectiveness, etc)
- Architectural style or design
- Introduction of movement or activity
- Diurnal or seasonal change

Other effects of the development

- Change to built surroundings and spaces
- Change to skyline
- Noise, odour, vibration, dust, etc
- Lighting effects and 'light spill'
- Change to general character (e.g. suburbanising or industrialising)
- Changes to public access, use or amenity
- Changes to land use, land cover, tree cover

- Changes to archaeological context, soil chemistry, or hydrology
- Changes to communications/accessibility/permeability

Permanence of the development

- Anticipated lifetime/temporariness
- Recurrence
- Reversibility

Longer term or consequential effects of the development

- Changes to ownership arrangements
- Economic and social viability
- Communal use and social viability

(Adapted from The Setting of Heritage Assets. English Heritage Guidance, p21).

RIGHT: TABLE - criteria for determining magnitude of impact against value/sensitivity of the heritage asset (From p25 Seeing The History In The View Published May 2011. English Heritage)

**STEP 4
Determining the overall impact**

At this stage, the two principal criteria, magnitude of impact and the sensitivity of the receptor are combined to come to a judgement about significance of effect. The table below sets out how this may be achieved. ‘Value’ in the sense used here refers to sensitivity of the heritage asset or view.

‘Acceptability’ is a judgement above and beyond that of significance and is about the overall balance of benefits and harm from the proposals as viewed or weighted by national policy and development plan policies.

	HIGH VALUE	MEDIUM VALUE	LOW VALUE
With high magnitude of impact	Major effect	Major effect	Moderate effect
With medium magnitude of impact	Major effect	Moderate effect	Minor effect
With low magnitude of impact	Moderate effect	Minor effect	Negligible effect
Negligible/neutral impact	Negligible effect	Negligible effect	Negligible effect

**STEP 5
Identifying ways of mitigating the impact of development**

The developer should show how the results of the previous assessment have been considered in the design process to mitigate harm to heritage significance within the view. The Design and Access Statement should record the iterative process of impact assessment and design development.

Pages 20-22 of the English Heritage Guidance, The Setting of Heritage Assets sets out options for reducing the harm arising from development. These include the relocation of a development or its elements, changes to its design, the creation of effective long-term visual or acoustic screening, or management measures secured by planning conditions or legal agreements. It notes that for some developments affecting setting, the design of a development may not be capable of sufficient adjustment to avoid or significantly reduce the harm, for example where impacts are caused by fundamental issues such as the proximity, location, scale, prominence or noisiness of a development. In other cases, good design may reduce or remove the harm, or provide enhancement, and design quality may be the main consideration in determining the balance of harm and benefit.



Appendix I Proposed Site Attributes

Attribute 1

The Site exhibits, in terms of overall survival and completeness, the world's best preserved example of a Dockyard and its Defences from the age of sail and early age of steam (1700-1865).

- Offices, Officers' Reading Room and Admirals' Conference Room, the Royal Dockyard Church, Stables and Cashier's Office;
- Ancillary features (Assistant Queen's Harbourmaster Office and Queen's Stairs, Muster Bell).

- Upnor High Street;
- 1-20 Prospect Row, 2- 12a & 14&15 Mansion Row, 18 High Street, 22&24 Garden Street, Second House 6 Garden Street;
- St Mary's Church.

Attribute 2

The completeness of individual site components explains the scale and complexity of the operational and defence requirements of a major dockyard and its associated defences and barracks in the age of sail and the early age of steam. Included in this are:

(i) The dockyard as a multi-phase site containing examples of each of the principal building types needed to construct, equip and repair a major naval fleet:

- Dry docks Nos 2, 3 and 4;
- Covered Slips Nos 3 – 7;
- The Ropeyard Complex (The Ropery, Hemp Houses, Spinning Room and Ropery Offices, Hatchelling House and Engine Room, and the Tarred Yarn Store);
- Mast Ponds;
- Storehouses – the Anchor Wharf complex and the Clocktower Building;
- The dockyard wall, tower houses and main gate for security;
- Buildings associated with ship manufacture, in particular, the Sail and Colour Loft, Timber Seasoning Sheds, Mast House and Mould Loft, Pumping Station, Lead and Paint Mill, No. 1 Smithery, the Wheelwrights Shop and the Ship's Timbers, Joiners' Shop, No. 1 Workbase, Former House Carpenters' Workshop and the Lower Boathouse;
- Residential and domestic facilities – in particular Officers' Terrace and Commissioner's House, Admiral's

(ii) The Chatham Lines as the artillery fortifications created in three main phases for the defence of the dockyard:

- Fort Amherst;
- 18th century central bastions;
- Lower Lines;
- The Field of Fire (Great Lines);
- The Inner Lines.

(iii) Barracks required to house the troops needed to defend the dockyard by manning the fortifications and to act as recruiting and invaliding centres for troops going to or coming from overseas service:

- Kitchener Barracks (layout and design);
- Brompton Barracks (including Barrack Square, Barrack Blocks [North, South and Officers], Crimean War Memorial, School House and Lecture Theatre, Garrison Church of St Barbara, and Garrison Gymnasium);
- Upnor Barracks.

(iv) Ordnance facilities for the supply of artillery, small arms and gunpowder for sea and land service:

- Chatham Gun Wharf (Former Storekeeper's House, Former Ordnance Store);
- Upnor Ordnance Depot (magazine use of 16th century castle, B Magazine, No. 2 Shell Store).

(v) Civilian settlements that grew up to service naval and military establishments, principally Brompton Village but also Upnor:

Attribute 3

A series of important inter-relationships between Site components explain the scale and complexity of the operational and defence requirements of a major defended dockyard of the age of sail and early age of steam, in particular:

- The river is key to the location of the dockyard, Upnor Ordnance Depot and Gun Wharf.
- Fort Amherst and the Chatham Lines occupy the high ground to defend the dockyard.
- Fort Amherst and the Chatham Lines relate to the exterior open area of the Great Lines and the interior space of the Inner Lines.
- Kitchener and Brompton Barracks are located within, and so as to serve, the Chatham Lines.
- Brompton Village is situated within the defences so as to serve the dockyard, and Kitchener and Brompton Barracks.

Attribute 4

The Site is a showcase for architectural, technological and engineering innovation, in particular:

- Timber Seasoning Sheds;
- Anchor Wharf Storehouses;
- No 3 Dry Dock and Pumping Station;
- Brunel Saw Mill;
- Lead and Paint Mill;
- Nos. 3 – 7 Covered Slips;

-
- The Ropery (forming machines);
 - The Hemp House (hatchelling and spinning machines).

Attribute 5

The Site's geographical location and topographical qualities explain Chatham's rise as a major defended dockyard of the age of sail, in particular:

- (i) Location next to the River.
- (ii) Location in relation to the continent and foreseen routes of enemy attack.
- (iii) Juxtaposition of high ground adjacent to river.

Appendix 2 University and College Quarter

Extract from the Medway Waterfront Renaissance Strategy 2004

medway
waterfront

university and college quarter



development summary

new dwellings (approx)	1,640-2,050
new jobs (approx)	720-1750
development period	2004-2024

The council will be working closely with its partners – SEEDA, the Historic Dockyard Trust, Greenwich and Kent Universities, Mid-Kent College, and the RSME – on the further development of residential development, commercial and special uses in this area. These will complement the role of Chatham Centre and waterfront as the heart of the city of Medway.

regeneration priorities are:

- develop a university and college quarter to include the relocation of an expanded Mid-Kent College
- continue to celebrate Chatham Historic Dockyard as a unique naval heritage attraction with innovative business and tourism activities
- continue to develop Chatham Maritime as a leisure destination which complements the universities and Chatham Centre and waterfront
- enable sensitive small-scale village development at Upper and Lower Upnor
- investigate World Heritage status

Appendix 3 Accurate Visual Representations

The following pages are extracted from the London View Management Framework (Mayor of London, March 2012). The extract is Appendix C: Accurate Visual Representations

The London View Management Framework has pioneered the approach followed in this document including the concept of view management plans.

Developers are expected to follow and document this approach.

⁴⁶² Under the View Management Framework proposed by the London Plan, the primary tool for the protection and enhancement of key views of London is by visual assessment and analysis of impact. This process involves the assessment of both positive and negative effects of proposed development on views designated by the London Plan, with reference to a series of visual management principles – some general and some site specific. The assessment of the visual impact of new development will be based on a variety of materials submitted by the proposer of the development and by others who may have interest in the project. This material may include architectural drawings, physical models, reference photography of completed developments and images of various types, generated either by hand or using computer software.

⁴⁶³ Throughout this SPC, reference is made to the term ‘Accurate Visual Representation’ (abbreviated as AVR). An AVR is a static or moving image that shows the location of a proposed development as accurately as possible; it may also illustrate the degree to which the development will be visible, its detailed form or the proposed use of materials. An AVR must be prepared following a well-defined and verifiable procedure so that it can be relied upon by assessors to represent fairly the selected visual properties of a proposed development. AVRs are produced by accurately combining images of the proposed building (typically created from a three-dimensional computer model) with a representation of its context; this usually being a photograph, a video sequence, or an image created from a second computer model built from survey data. AVRs can be presented in a number of different ways, as either still or moving images, in a variety of digital or printed formats.

⁴⁶⁴ It is recommended that AVR positions should be selected on site and that wherever possible, formal assessment of an AVR should take place in the field.

⁴⁶⁵ This Appendix covers three topics:

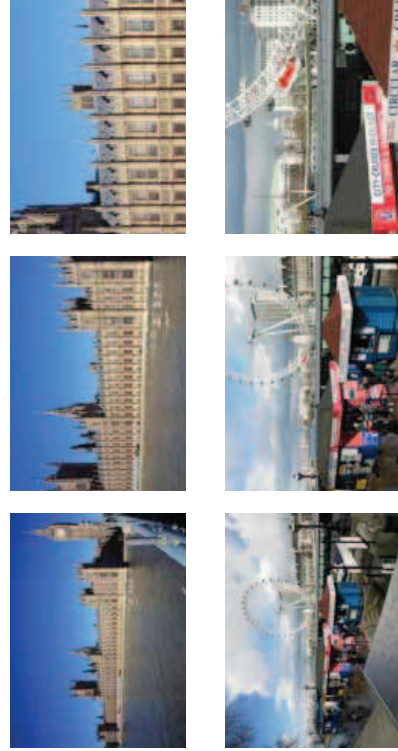
- Selection of an appropriate field of view for each AVR
- Defining the visual properties that are shown by a specific AVR
- Documenting each AVR, to reassure assessors as to the usefulness and veracity of the visual information they are reviewing, and if required, to allow replication

Selecting an appropriate field of view

⁴⁶⁶ Creators and users of AVRs need to be aware of issues that arise from the inevitable approximations between the rich human perception of the environment and the relatively low resolution, generally static media used to represent buildings in their context. Many of these limitations are shared with photography and cinematography and arise from the need to approximate the three-dimensional environment that surrounds the viewer using the flat rectangle of a perspective drawing, photograph or screen.

⁴⁶⁷ As we experience a scene, our perception is built from a sophisticated visual process that allows us to focus onto individual areas with remarkable clarity whilst remaining aware of a wider overall context. When recording a scene as a photograph or video sequence much more finite decisions must be taken to depict a specific area of interest. In selecting this area of interest, a choice must therefore be made between showing the detail of the proposal in the greatest clarity and placing it into a meaningful context.

HFOV	66°	40°	13°
35mm	28mm	50mm	150mm
6x6cm	43mm	75mm	225mm
5x4in	94mm	165mm	500mm



⁴⁶⁸ Table comparing Horizontal Field of View (HFOV) with lens sizes for three common camera formats, illustrating the choice to be made between level of detail and amount of context to be included.

⁴⁶⁹ The selection of an area of interest is defined by the choice of lens and any subsequent cropping of the image. To make clear the process that has been followed, an AVR should clearly indicate the original centre of view (more accurately the “Optical Axis”) and the resulting field of view. This can be defined numerically by angular dimensions on each side of the Optical Axis or graphically by suitable annotations to the perimeter of the image.



AVR image annotated to show a 50° Horizontal Field of View. By indicating the optical axis the author also makes clear that vertical rise has been used by the photographer to include the relevant context whilst avoiding converging verticals

⁴⁷⁰ Creators of AVRs should make clear in their method statements the criteria used to select appropriate fields of view for a particular study. In addition, for each AVR clear information must be provided to explain the resulting field of view used, in order to permit sensible comparison between AVRs, both within a single study and across studies.

⁴⁷¹ Users of AVRs should be aware that photographic or computer images most closely match our perception of shape at the optical axis this being the line that passes from the eye point to the target or look-at point, or in photographic terms the centreline of the lens. As angular distances increase away from this line, while the relative positions of objects remains correct, their perceived shape may be less familiar than when we look directly toward them. For this reason, the representation of the proposed development should ideally occur close to the optical axis, i.e. towards the centre of the image.

⁴⁷² Where a proposal needs to be shown in a broad context choices must be made between using wide angle photography, which may give rise to less natural perspective at the edges of the images or by combining additional images taken from the same position. Where this latter technique has been used AVRs should include additional annotation to indicate how images have been combined.



AVR image annotated to show that a wider field of view has been used to include a relevant townscape context. The proposal and the existing tower at 30 St Mary's Axe lie within the central area of the image and thereby avoid obvious distortion

Defining the purpose of an AVR

⁴⁷³ By accurately combining an image of a proposed development with a representation of its existing context, all AVRs explain the location and massing of a proposed development. They may also illustrate additional properties including the degree of visibility, architectural form or choice of materials selected. In their most sophisticated form they give a very useful impression of how a completed development would look in its environment under specific lighting and weather conditions. When complex AVRs are requested, more time is required and therefore costs rise. For this reason the assessors of a project should be careful to only request AVRs of a type which show the properties which need to be assessed from a specific location.

474 To assist agreement between all parties prior to AVR preparation, the following classification types are presented to broadly define the purpose of an AVR in terms of the visual properties it represents. This classification is a cumulative scale in which each level incorporates all the properties of the previous level.

AVR Level 0	Location and size of proposal
AVR Level 1	Location, size and degree of visibility of proposal
AVR Level 2	As level 1 + description of architectural form
AVR Level 3	As level 2 + use of materials



AVR0 Showing Location and Size (in this case as a toned area superimposed on photograph)



AVR1 Confirming degree of visibility (in this case as an occluded 'wireframe' image)



AVR2 Explaining architectural form (in this case as a simply shaded render in a uniform, opaque material)



AVR3 Confirming the use of materials (in this case using a 'photorealistic' rendering technique)

Information required: Annotation and Method Statements

475 Within the broad classifications by purpose and angle of view mentioned above, there remains a wide variety of potential production techniques, graphical styles and delivery formats available for AVRs. Indeed the range of options continues to increase as new technologies become available and new practitioners propose more subtle or sophisticated ways to transpire such an intrinsically complex visual experience as observing a city into convenient, durable and portable media.

476 This being the case it is important that each set of AVRs prepared to assist the Qualitative Visual Assessment of a new proposal should be accompanied by a well written, helpful statement confirming the techniques employed and the decisions made. This 'method statement' should contain sufficient detail to allow assessors to understand the documents presented, conduct reliable comparisons between AVRs within the same set and allow AVRs prepared under one methodology to be compared with others prepared using another. Method statements should be expressed in non-specialist terminology which is comprehensible to the wide range of professional disciplines likely to be involved in Qualitative Visual Assessment.

477 As a minimum, a method statement should contain:

- The name and contact details of the company preparing the AVRs
- The process used to select the viewpoints for inclusion in the study and to determine the representation type to be used
- Any general policies applied with regard to angle of view, cropping or use of multiple images
- Descriptions of the procedures used to accurately determine the size and location of the proposals and any comments on the accuracy of this process
- Descriptions of the processes used to determine the degree to which the proposals are actually visible in the view (AVR Level 1 and above) and notes on how occluded parts of the proposal are shown
- Descriptions of the processes used to add architectural detail to the representation (AVR Level 2) and how this has been represented graphically

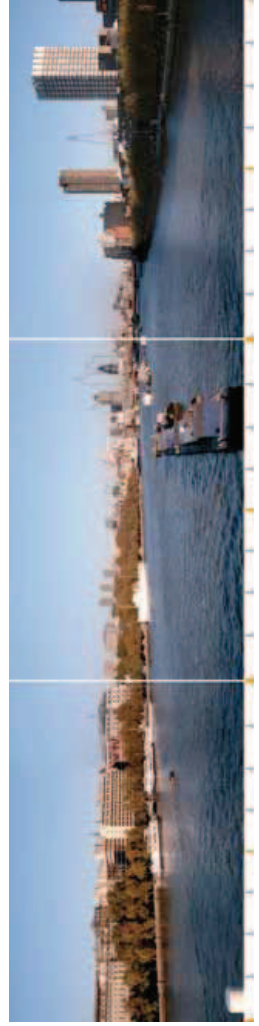
- Descriptions of the processes used to represent the appearance of the proposed materials (AVR Level 3) and notes on the limitations of the techniques used

⁴⁷⁸ For each individual AVR the following information should be provided:

- Unique identification code
- Textual description of viewpoint location and direction of view
- Time of day and date for any source photography or video
- Map and site photography showing location of camera position
- Co-ordinates of camera position
- Peripheral annotation to the image to confirm the direction of view in the original photography (the optical axis)
- Definition of the field of view depicted each side of the optical axis, either in the form of peripheral annotation, textual description or more sophisticated maps
- AVR type i.e. which visual properties are shown

⁴⁷⁹ Where an AVR has used more than a single base image to represent the existing context, e.g. a moving sequence or a “stitched” Panorama, then the requirements above should be adapted to convey the key data required to explain the construction of the AVR and where necessary to verify its accuracy.

⁴⁸⁰ In addition to the minimum specifications listed above, it is recommended that companies preparing AVRs should include as much information as may be required to allow full confidence in the processes used in the study.



Appendix 4 Other Views of Chatham Dockyard and its Defences

A Building Height Policy for Medway (2006), Brompton Lines Conservation Area Appraisal (2006), and The Historic Dockyard Chatham Conservation Management Plan lay down view management policies on a number of views to and from Chatham Dockyard and its Defences.

of Chatham Dockyard and its Defences and its environs are tabulated below. The wording within the tables is a summary of that within the source documents and reference to the original documents is recommended.

These views were selected because they are:

1. Key strategic landscape views, generally from public spaces, that define much of Medway's landscape and townscape character (Building Height Policy);
2. Of historic significance, but not necessarily viewpoints of historic significance in themselves or the optimum viewpoints from which to understand the attributes that illustrate the precise significance of Chatham Dockyard and its Defences (Brompton Lines Conservation Area Appraisal), or;
3. Townscape views of particular character (The Historic Dockyard Chatham Conservation Management Plan).

Whilst there is some overlap with the View Management Guidance in part II of this document the views selected in the other documents are, as one might expect, rather more wide ranging. The guidance on these views is generally more strategic and less detailed than in this present document. Nevertheless, the Council regards adherence to the guidance as important in maintaining the unique and significant key characteristics of Medway whilst allowing for regeneration.

It is not believed that the guidance in A Building Height Policy for Medway, the Brompton Lines Conservation Area Appraisal, or The Historic Dockyard Chatham Conservation Management Plan contradicts the guidance in this document. Where a conflict may be perceived, the more detailed guidance in this document is to be followed.

For ease of reference the views that incorporate elements

A Building Height Policy for Medway, Appendix to Part 2- View Management

The document features wide panoramic views from publicly accessible and/or popular spaces. They show Medway's particular landscape and river setting of an estuarine flood plane backed by steep escarpments and hanging valleys of the North Downs. Development is in general confined to the valley bottoms and flood planes. The tops

of escarpments were historically kept clear for military defence purposes and are generally used as parks and open space today. This provides a distinctive green backdrop of trees and open space to much of the urban townscape. The views described within the documents that are relevant to Chatham Dockyard and its Defences are summarised below. Each view is analysed by viewpoint, view description, and view management policies.

Building Height Policy Viewpoint	View Description	Management Strategy
<p>1. Fort Amherst</p> <p>Popular visitor attraction and important historic elevated open space:</p> <p>Looking upstream over the River Medway from Fort Amherst to Rochester.</p>	<ul style="list-style-type: none"> The slab form of Anchorage House is dominant (partially obscuring Fort Pitt Hill) and out of keeping with the fine grained townscape of the Star Hill - Sun Pier Conservation Area. The regeneration site of Rochester Riverside currently forms a flat plane in the foreground of historic Rochester. The ridge from Fort Pitt slopes down to follow the curve of the river to meet Rochester Castle and Cathedral grouped together. Cobham Woods provides the distant green backdrop to historic Rochester. 	<ul style="list-style-type: none"> Protect skyline formed by Fort Pitt Hill and Cobham Woods. Protect ridgeline that drops to meet the castle and cathedral. Protect view to castle and cathedral through careful siting and development at Rochester Riverside and Medway City Estate. Protect open view of the curve of the river (development at Chatham centre and Medway City Estate should respect this). Long-term replacement of Anchorage House.
<p>4. Fort Pitt</p> <p>A popular open space on high ground.</p> <p>Sweeping view looking east towards the Great Lines.</p>	<ul style="list-style-type: none"> Green backdrop to Chatham formed by the Great Lines and Fort Amherst. Naval War Memorial on the Great Lines is an important landmark visible over a wide area. Isolated modern block of Victoria Tower is prominent as it rises above the green ridgeline and is at variance with the character of the area. The huge slab form of the 1970s Mountbatten House is a dominant feature, blocking views to large areas of Fort Amherst. 	<ul style="list-style-type: none"> Protect view of Naval War Memorial and the Great Lines through careful siting and design of higher building proposals on Chatham Centre and Waterfront. Protect green ridgeline formed by Fort Amherst and the Lines through sensitive development within Chatham Centre. Victoria Tower does not justify further tall buildings in this area and should, in the long-term, be removed.

Building Height Policy Viewpoint	View Description	Management Strategy
<p>5. Doust Way</p> <p>Riverside open space adjacent to entrance of major regeneration area of Rochester Riverside within the proposed development of Rochester Riverside.</p> <p>View downstream to Chatham centre, and to Chatham Dockyard's defences.</p>	<ul style="list-style-type: none"> • Naval War Memorial, St Mary's Church and Brook Theatre are key landmarks. • Fort Amherst, the Great Lines and Fort Pitt form important green ridgelines. • Low lying peninsula and industrial buildings of Medway City Estate project into the middle ground. 	<ul style="list-style-type: none"> • Protect views to landmarks- St Mary's Church, Gun Wharf and Fort Amherst, and the Brook Theatre. • Protect green ridgeline created by Fort Amherst. • New higher buildings could create a cluster in Chatham centre that mitigates the bulk of Mountbatten House.
<p>6. Bath Hard Wharf</p> <p>A proposed public space within the development of Rochester Riverside.</p> <p>View downstream to Chatham centre, and to Chatham Dockyard's defences.</p>	<ul style="list-style-type: none"> • View of Chatham centre and the Great Lines. • Fort Amherst creates a dramatic backdrop. • Key landmarks of St Mary's Church and the Brook Theatre nestled into the hillside. • Grouping of historic buildings associated with Gun Wharf is of importance. • Mountbatten House and Anchorage House have a major impact on views and skyline. • Naval War Memorial, St Mary's Church and Brook Theatre are key buildings. 	<ul style="list-style-type: none"> • Protect green ridgeline formed by Fort Amherst and the Great Lines- future development should not break the skyline. • Protect views to important landmarks. • New higher buildings in Chatham centre and Waterfront could create a valley bottom cluster and reduce the visual impact of Mountbatten House. • Higher buildings on the tip of Medway City Estate would block views of landmarks and topographical features and should be avoided.
<p>8. Great Lines</p> <p>An important historic elevated space</p> <p>View across Chatham valley</p>	<ul style="list-style-type: none"> • View across Chatham in its river valley to Fort Pitt opposite. • Demonstrates importance of Fort Pitt Hill and the Great Lines as topographical features. • Castle and cathedral form a landmark group in the distance. 	<ul style="list-style-type: none"> • Protect view to green backdrop formed by Fort Pitt Hill. • New development should continue to allow views across the valley- from Great Lines to Fort Pitt, and vice versa. • Protect view to Rochester Castle and Cathedral. • New high buildings in Chatham centre could create a cluster with Mountbatten House.
<p>12. Upnor Castle</p> <p>An important visitor attraction</p> <p>View east of surrounding river and landscape</p>	<ul style="list-style-type: none"> • Recent low housing development on St Mary's Island. • Broad flat panorama of former marshland subsequently utilised for the steam navy. • Large Covered Slips set against tree lined ridge. • Dockside Centre (large scale Grade II* Listed former boiler shop for the steam navy). • Undeveloped interface land between Dockside Centre and the Historic Dockyard. 	<ul style="list-style-type: none"> • Protect view to landmark buildings in the Historic Dockyard. • Protect views to green backdrop above dockyard and the interface land. • Higher building development in interface land should allow for views through to ridge above dockyard.

Building Height Policy Viewpoint	View Description	Management Strategy
<p>13. Hoo Common</p> <p>A popular informal open space on high ground overlooking the river, dockyard and Chatham centre.</p>	<ul style="list-style-type: none"> • View south to Chatham Maritime and centre. • Landmark buildings in the dockyard set against the tree-lined ridge lead the eye to Chatham centre. • Core urban areas on river plane, surround by elevated ground. 	<ul style="list-style-type: none"> • Protect view to important landmark buildings in the Historic Dockyard. • Protect green backdrop to dockyard. • Protect green backdrop of Fort Pitt Hill. • Long-term replacement of Anchorage House and Victoria Tower.
<p>15. Broom Hill</p> <p>Elevated and popular public open space in Strood looking east towards Chatham and Rochester.</p>	<ul style="list-style-type: none"> • Sweep of River Medway. • Fort Amherst, Great Lines and Fort Pitt Hill form an important green backdrop to the core urban area. • Rochester Castle and Cathedral are prominent landmark buildings. • Mountbatten House and Anchorage House dominate the central Chatham area. 	<ul style="list-style-type: none"> • Protect view to Rochester Castle and Cathedral . • Protect green ridgelines formed by Fort Pitt Hill and Fort Amherst/ Great Lines. • Scope for a cluster of tall buildings in Chatham centre and water front (to mitigate Mountbatten House). • Long-term replacement of Anchorage House.
<p>Approach view B - A228 Hoo Common</p> <p>Series of kinetic views on approach to Medway Tunnel down the A228 through Hogmarsh Valley.</p>	<ul style="list-style-type: none"> • The Historic Dockyard and in the foreground industrial buildings of Medway City Estate from Whitewall Creek. • Dramatic front-on view of covered slips at dockyard. • Green backdrop (almost obscured) that emphasises size and form of the covered slips. 	<ul style="list-style-type: none"> • Protect views of important landmark buildings in Historic Dockyard. • Protect views to green backdrop above dockyard. • Protect green backdrop.

Brompton Conservation Area Appraisal

is particularly the case in views of the area from Rochester, Frindsbury and the River, where the backdrop of the Lines rising above the Dockyard and Chatham is a distinctive and attractive feature...'

'...the appraisal will be of use in helping the Council and others in ensuring that the architectural and historical significance of the area is taken into account when considering future development proposals and schemes. The following pictures illustrate key views to the Conservation Area. Development proposals that impinge on these views will require careful assessment...'

With regard to views and landscape setting in general the document states:

'Today, although much has changed, the military landscape of the dockyard on the flood plain, along with the defences and associated infrastructure of barracks on the hillside above remains substantially intact and readily comprehensible. This

The document does not contain specific policies with regard to view management. However, the introduction to the document states that:

Key View	View Description
1. From Rochester Riverside east towards Chatham centre, Fort Amherst and the Great Lines.	Buildings – from left to right- Kitchener Barracks (extreme left side), spire of St Mary's Church, Command House, Gun Wharf, The Eye, spire of former Chatham Town Hall (Brook Theatre) rising above the red brick Rats Bay Pumping Station, tower blocks of Mountbatten House and Anchorage House. Fort Amherst straddles most of the hillside above the buildings. The low lying nature of the Gun Wharf Complex, with St Mary's Church above and the green backdrop provided by the trees on the Great Lines is a key characteristic of historical significance. Similar views are available from the green area of New Gun Wharf in central Chatham.
2. From Fort Pitt towards the Great Lines.	St John the Divine Church is prominent in the middle ground rising above houses. The escarpment of the Great Lines is a key visual feature. The Naval War Memorial is an obvious feature on the skyline. Similar views exist from various locations across the Chatham valley – especially in the vicinity of New Road.
3. From Medway City Estate towards the Dockyard.	Victoria Tower is prominent and impinges upon the tree-lined hillside of the Great Lines. The upper floors of Kitchener Barracks can be seen just above the dockyard in the middle of the picture, whilst the terraces of Gun Wharf (Medway Council's headquarters) are apparent immediately to the right of the dockyard. The spire of St Mary's Church, the tower block of Mountbatten House and the shoreline of Gun Wharf are key features on the right of the picture.
4. From Chatham Centre- Whiffen's Avenue (adjacent to the Brook Theatre)	There are several viewpoints along the north bank of the Medway where similar views can be obtained The Brook Theatre (Old Town Hall) with the ramparts of Fort Amherst rising behind.

The Historic Dockyard Chatham Conservation Management Plan. 4th Edition.

The document notes that the dockyard is not apparent from the centre of Chatham, obscured by the high ground of Fort Amherst and Brompton Hill. It notes that the

dockyard is visible from high vantage points including Broom Hill in Strood and Jackson's recreation ground in Rochester. Townscapes, including focal points and key spaces, within the dockyard are analysed and are summarised below.

Key vistas within the dockyard	<ul style="list-style-type: none"> • Through Main Gate to Royal Dockyard Church. • Narrow views up and down confined streets and alleyways in a formal street pattern. • Vista of Timber Seasoning Sheds, Mould Loft, Mast Houses and Brunel Saw Mill from main car park (the former mast pond area) and from key open space defined by No.1 Smithery and the Covered Slips. • North/ south axis separating domestic and administrative functions to the east from the industrial ship building area to the west.
Landmark/ focal point buildings	<ul style="list-style-type: none"> • Covered Slips. • Anchor Wharf. • Main Gate. • Assistant Queen's Harbourmaster's office. • No.1 Smithery. • Brunel Saw Mill and chimney. • Mast Houses and Mould Loft. • Lower Boat House.
Other features	<ul style="list-style-type: none"> • Formal grid of streets. • Division between intimate townscape of domestic and administrative buildings and the industrial buildings towards the river edge. • Perimeter wall forming imposing eastern boundary at Dock Road. • Skyline formed by Covered Slips. • Mast pond. • Cranes, flag and bell masts. • Interlinked open spaces. • Open dry docks, now occupied by historic ships.

Policy P2.1 states... 'The visual character of the Historic Dockyard reflects its development for naval purposes over a 370 year period. Care should be taken to retain and

reinforce this character and atmosphere in any future work. The site has a strong identity and a sense of place that is based on strong architectural character, historic relevance

and the relationships of key buildings and structures and the adjoining sites and riverfront.'

Appendix 5 View Selection Methodology

Objective

The principal purpose of this document is to establish an understanding of the baseline views to be used when monitoring the condition of Chatham Dockyard and its Defences. This methodology statement sets out an exercise in identifying views of particular importance to help in the process of designating those views.

It follows guidance on the method used by English Heritage in analysing the content and importance of a view when making decisions in relation to development affecting views (Seeing The History In The View, May 2011. English Heritage). It is a qualitative method which has been applied, in this case, with the principal objective of identifying the views that best display the heritage significance of Chatham Dockyard and its Defences.

Consideration was also given to views with other cultural values for Medway, for example non-historic landmarks. In this sense this process has built on work previously undertaken in identifying strategic views in Appendix A of A Building Height Policy for Medway adopted by Medway Council in May 2006.

The greatest weight in assessing the overall value of a view is given to heritage values of international importance. A secondary, broad objective of this process is to support an increased understanding and recognition of the contribution that Medway's rich historic environment makes to the character and sense of place of the area as a whole.

Step 1

An initial survey was conducted of authoritative documentary sources to identify views already recognised as being important and potentially worthy of protection. The key sources were: Chatham Dockyard and its Defences Management Plan 2009; Brompton Lines Conservation Area Appraisal (2006); The Historic Dockyard Chatham

Conservation Plan 4th edition (2011); and Great Lines City Park Design Preparation Report (2008). This survey was supplemented by views suggested by individuals representing English Heritage, Chatham Historic Dockyard Trust and Medway Council.

The result of this was a list of approximately 40 important views. All of these were thought to at least partially capture the varied attributes of Chatham Dockyard and its Defences. In this sense they were all potentially of medium to high value according to the definition set out in the English Heritage guidance.

Step 2

Site visits to the viewing places revealed that some of the potentially important views were no longer obtainable due to twentieth century development and/or tree growth and were not likely to be recoverable. These views were therefore excluded from further detailed analysis. Table 2 records all of the views that were not selected for further analysis and gives the reasons for their exclusion.

Step 3

The next step was to set criteria for evaluating the relative importance of views through analysis of their content. The objective of this was to identify the most important views within the remainder of the list of potential views. A workshop was held to begin a process of testing these criteria. The workshop was attended by landowners and stakeholders including representatives of English Heritage, Chatham Historic Dockyard Trust and Medway Council.

Participants worked in three groups to analyse a selection of photographs of potentially important views. Each group included individuals with expertise in understanding the historic environment and planning as well as individuals representing other expertise and local interests. They considered a series of questions that, following the English

Heritage guidance, allowed a structured and objective assessment of the relative importance of the views:

- What do you see in the view? Referring principally to buildings and other features and characteristics of Chatham Dockyard and its Defences.
- What is it about the attributes that it is important you are able to see or appreciate?
- Is this the best place from which to appreciate that?
- What spatial relationships are visible between different elements of the view? Does the view gain extra significance as a consequence of being able to see these relationships? Is this the best place from which to appreciate these?
- Is the viewing place a well-used and accessible place for the public?
- Does the view have other cultural values for Medway that it is important to consider?



Photo: Workshop in progress, 21st February 2013

Appendix 7 shows a sample worksheet capturing feedback from this first exercise. The groups were also asked to undertake a second exercise to consider management of the view - a sample worksheet is again included in Appendix 7.

In relation to the criteria, 'Is the viewing place a well-used and accessible place for the public?', it should be noted that:

Although, the contribution that setting makes to significance does not depend on there being public access to experience that setting, as this varies over time and circumstance, proper evaluation of the effect of change within the setting of a heritage asset will need to consider the implications for public appreciation of its significance.

(*The Setting of Heritage Assets, p6, English Heritage 2011*).

Step 4

Most of the views considered in Step 3 are highly complex so the qualitative process of decision-making and judging their relative importance is not a straightforward task. The workshop proved to be a useful exercise in testing the selection criteria and ensuring that the initial survey was sufficiently extensive.

Subsequently in combination with workshop feedback sheets, further consultation with key individuals and research by the project officer (including cross-mapping of the identified views and site attributes) a shortlist of views was identified that were assessed to be of highest overall importance. These are set out in Table 1 along with the reasons for this assessment.

Table 2 records viewpoints that were not taken forward for further analysis with the reasons for this. Typically reasons include:

- The view is of value in terms of historic significance and

the heritage assets visible within it, but it is considered that other viewpoints provide a better appreciation of those heritage assets and the spatial and visual inter-relationships between them.

- The viewpoint is not considered to be of relevance to an appreciation of the international significance of Chatham Dockyard and its Defences although different values may be attached to them that fall outside the principal selection criteria for this exercise.
- The view is no longer obtainable due to twentieth century development and/or tree growth and is not likely to be recoverable.

Table 1 Included Viewpoints

Viewpoint	Source	Initial Assessment of Overall Value/Importance of View
1A: From Upnor Castle water bastion upstream towards the Historic Dockyard waterfront.	Identified in Chatham Dockyard and its Defences Management Plan	An integral part of the Royal Dockyard complex originally built in 1559-67 as a principal defensive structure but after the Dutch Raid and during the period of international significance it took on a new role as the main powder magazine for the Ordnance Board at Chatham. Covered Slips are imposing structures that provide one of the most distinctive skylines on the river. A highly distinctive setting that provides ambience and bolsters the sense of place of the site.
1B: From Upnor Castle water bastion downstream towards the former site of Cockham Wood Fort	Identified in Chatham Dockyard and its Defences Management Plan	Important due to functional and historic relationship of castle as the oldest defence of the dockyard and the seventeenth century defences designed by De Gomme to control the passage up Gillingham Reach. During the period of international significance its role was as the main powder magazine for the Ordnance Board at Chatham. A highly distinctive setting.
2: From Blue Crane to buildings at Upnor charting the development of ordnance facilities.	Identified as a public viewing point on masterplan.	A good viewpoint from which to appreciate Upnor. Whilst one of a possible series of views this will be an important node in the development of the final phase of St Mary's Island. Close to point of former defensive chain. Upnor Castle is a small structure that stands alone in this view and is clearly readable.
3: From Medway City Estate looking east across river to dockyard.	Numerous historic images are drawn from the west including those in the British Library Kings Collection.	The riverbank directly facing the dockyard is the best vantage point from which to appreciate its integrity. The selected viewpoint is relatively unobstructed as it is located on a short pier/jetty projecting forward of the river bank. The land is privately owned and is not a place much visited by the general public but access to this viewing point is relatively unrestricted.
4A: Upstream from Thunderbolt Pier	Identified in Chatham Dockyard and its Defences Management Plan - precise viewpoint location determined in consultation with Chatham Historic Dockyard Trust.	Important due to connection of dockyard to river. Just upstream from Thunderbolt Pier are the Queen's Stairs – the 17th and 18th century ceremonial landing point to the dockyard and therefore a key historical location in the context of the dockyard's relationship with the river.
4B: Downstream from Thunderbolt Pier	Identified in Chatham Dockyard and its Defences Management Plan - precise viewpoint location determined in consultation with Chatham Historic Dockyard Trust.	Important due to functional and historic relationship to Upnor Castle as the oldest defence of the dockyard. One of the few places in the dockyard where the visual relationship is clear and unobstructed and would have been so historically. Also connects the dockyard to the river.
5: From Fort Pitt Hill/Victoria Gardens looking north towards the dockyard and the Chatham Lines.	The Historic Dockyard Chatham Conservation Management Plan and Brompton Lines Conservation Area Appraisal.	A well appreciated and historically significant panoramic viewpoint that permits an understanding of the relationships between the river, the towns of Rochester and Chatham and the dockyard and its fortifications.

Viewpoint	Source	Initial Assessment of Overall Value/Importance of View
6: From Sun Pier back to Old Gun Wharf, Great Lines and Fort Amherst	Suggested by Senior Landscape Officer	A good vantage point from which to understand the visual and spatial inter-relationships between Old Gun Wharf and the dockyard and its defences with Fort Amherst placed at the centre of the view. Perception of scale and role of defences depends on being able to see the landform from which it rises from river level. The low lying nature of the Gun Wharf complex, with St Mary's Church above and the green backdrop provided by the trees on the Great Lines is a key characteristic of historical significance. The viewpoint is not of great historic significance but is in close proximity to Old Gun Wharf which is at the core of Chatham Dockyard and its Defences and can only provide views obstructed by trees. There would have been piers and jetties here as well as ships providing views from the river itself during the period of international significance.
7A: From Cornwallis Battery, Fort Amherst over old Gun Wharf to river, Rochester and former site of Fort Pitt.	Identified in Chatham Dockyard and its Defences Management Plan and Brompton Lines Conservation Area Appraisal. These views relate to historic gun positions and lines of fire.	An historically significant viewpoint which allows appreciation of how the defences were designed to work and now a well appreciated panoramic viewpoint. Note that all gun placements were strategically chosen, so 'micro views' are all significant.
7B: From Fort Amherst (Down Barrier Ditch)		Important for giving a sense of the intent of military architecture and the connection between the Fort and river.
7C: From Belvedere Battery, Fort Amherst to Fort Pitt		Most visible and impressive sense of the Fort's dominance of the river, and town below. Chosen by the military as a good viewpoint, hence 'Belvedere'.
7D: From Prince William's Battery, Fort Amherst to the Great Lines		A view linking the Fort to its Field of Fire which is the only remaining such view due to encroachment elsewhere by development and tree growth.

Table 2 Rejected Viewpoints

Viewpoint	Source	Initial Assessment of Overall Value/Importance of View
From urban fringe of Gillingham back towards Chatham.	Proposed by Chatham Historic Dockyard Trust.	This expansive view of open land is important in understanding how the fortifications were designed to work but there are now very few direct views to the bastions as per the original concept. A more appropriate means of protection of this area is as open space and via the Brompton Lines Conservation Area Appraisal.
From St Mary's Barracks 2/Demi Bastion relating to historic gun positions and lines of fire across the Great Lines towards the former site of Gillingham Fort.	Identified in Chatham Dockyard and its Defences Management Plan	Site visits revealed that the views towards the former field of fire across Lower Lines Park are no longer obtainable due to twentieth century development and tree growth and were not likely to be recoverable.
From the dockyard to the hill top position of the Brompton Barracks.	Brompton Lines Conservation Area Appraisal.	Site visit revealed that the view is no longer obtainable due to twentieth century development and tree growth and is not likely to be recoverable. The later buildings of the Royal School of Military Engineering are more visible in this view and are not relevant to the period of international significance.
From various points on Chatham Lines across Great Lines to Gillingham.	Borough Landscape Character Area Assessment and proposed by Chatham Historic Dockyard Trust.	Site visits revealed that the views were no longer obtainable. e.g. Mansion Row would have originally looked out over the Lines but the view that has been partially obscured by tree growth and Ministry of Defence housing.
From St Mary's Island to the hill top position of Brompton Barracks.	Brompton Lines Conservation Area Appraisal.	Site visit revealed that the view is no longer obtainable due to twentieth century development and tree growth and is not likely to be recoverable.
Prospect Row over river.	Brompton Lines Conservation Area Appraisal	Prospect Row would have originally had fine views over the river and it featured prominently in river views depicted in the 18th century. These views have been blocked by Victoria Tower.
Prince Frederick's Bastion north-east to river or former site of Gillingham Fort.	Proposed strategic view in 2007 draft management plan.	View no longer obtainable due to twentieth century development and tree growth and is not likely to be recoverable.
Prince Frederick's Bastion south-east across Medway Road.	Proposed strategic view in 2007 draft management plan.	View no longer obtainable due to twentieth century development and tree growth and is not likely to be recoverable.
From Rochester Riverside looking east towards Chatham Centre, Fort Amherst and the Lines.	The Historic Dockyard Chatham Conservation Management Plan and Brompton Lines Conservation Area Appraisal.	A good vantage point from which to understand the visual and spatial inter-relationships between Old Gun Wharf and the dockyard and its defences. The viewpoint is not of great historic significance and it was concluded that the same assets and relationships between them are better represented by the view from Sun Pier which also benefits from proximity to Old Gun Wharf.

Viewpoint	Source	Initial Assessment of Overall Value/Importance of View
From the Steeple of Frindsbury Church to the dockyard.	British Library Kings Collection Cartographic items Kings MS. 43, fol.8. 'A View of the River Medway from Rochester Bridge to Sheerness taken from the Steeple of Frindsbury Church opposite the Dock at Chatham showing how ships of the Royal Navy are secured and moored unto the village of Gillingham together with the present number and names of them as per the tables thereof'. Delineated in September 1698.	Initially considered to be potentially important for reasons of historic significance but a site visit revealed that it is difficult to ascertain where the view is taken from and it is perhaps no longer obtainable. The image also pre-dates the period of international significance.
From Ordnance Street across Chatham to Fort Amherst and the Great Lines with distant views of the dockyard.	Proposed in workshop	Of some value in terms of the heritage assets visible but view from Fort Pitt Hill/Victoria Gardens looking north towards the dockyard and the Chatham Lines provides a better appreciation of those heritage assets and the spatial and visual inter-relationships between them.
From New Road car park to the escarpment of the Great Lines.	Proposed by Conservation Officer, Medway Council	Of some value in terms of capturing the character of the Great Lines but view from Fort Pitt Hill/Victoria Gardens looking north towards the dockyard and the Chatham Lines provides a better appreciation of those heritage assets and the spatial and visual inter-relationships between them.
From Fort Amherst (Prince William's Battery).	Identified in Chatham Dockyard and its Defences Management Plan and Brompton Lines Conservation Area Appraisal.	Of some value in that it relates to a historic gun position and line of fire but a better view is available from Belvedere Battery. This view does not give the same impression of height and the visual inter-relationship between the Fort and the river and civilian settlement below.
From No. 7 Covered Slip downstream to Upnor.	Proposed strategic view in 2007 draft management plan.	A better view is available downstream from Thunderbolt Pier
From Riverside Gardens east to Old Gun Wharf, Fort Amherst and the Great Lines.	Proposed by Senior Landscape Officer, Medway Council	A highly publicly accessible and well-used location. It is also historic but little of what can be seen today would have been visible historically. The view from Sun Pier, although not necessarily historic, provides a better appreciation of these heritage assets and the spatial and visual inter-relationships between them.
Up Barrier Ditch from Dock Road.	Proposed by Chatham Historic Dockyard Trust	Much of what is important about this view is better captured by the view down the Barrier Ditch from Fort Amherst. This alternative view also captures the relationship with the river.

Viewpoint	Source	Initial Assessment of Overall Value/Importance of View
From No. 7 Covered Slip directly across the river to Whitewall Creek.	Proposed strategic view in 2007 draft management plan.	No historic functional relationship between the dockyard and the creek so not considered to be of relevance to an appreciation of its significance.
Hoo Common to Brompton Barracks.	Proposed strategic view in 2007 draft management plan.	Does not apply specifically to an appreciation of the significance of Chatham Dockyard and its Defences in terms of the approach to Medway from this direction.
Hoo Common to Upnor Castle.	Proposed strategic view in 2007 draft management plan.	Does not apply specifically to an appreciation of the significance of Chatham Dockyard and its Defences in terms of the approach to Medway from this direction.
Naval War Memorial on Great Lines to Rochester and Chatham.	Proposed strategic view in 2007 draft management plan.	Not considered to be of relevance to an appreciation of the significance of Chatham Dockyard and its Defences although different values may be attached to these views that fall outside the principal selection criteria for this exercise.
Broom Hill in Strood to Rochester and Chatham.	The Historic Dockyard Chatham Conservation Management Plan.	The roof lines of the Covered Slips and Anchor Wharf are visible, as indeed they are from a number of Medway's southern approaches, but the viewpoint is not considered to be of relevance to an appreciation of the significance of Chatham Dockyard and its Defences and is too distant.
From Brunel Saw Mill back to mast pond down the hill.	The Historic Dockyard Chatham Conservation Management Plan.	This view is appreciated by many but does not have major historic significance save for the visual connection between the Saw Mill and former mast pond that reinforces their functional relationship.
Dock Road to Main Gate.	The Historic Dockyard Chatham Conservation Management Plan.	Impressive entrance and the high dockyard wall demonstrates the enclosed, defensive character of the dockyard. However the elevated infantry barracks which form a substantial part of the view today are not relevant to the period of international significance.
Rochester Rail Bridge or Strood Riverside across Medway City Estate to covered slips.	Proposed by English Heritage.	Views from the rail bridge are largely obscured by its structure. The roof lines of the Covered Slips and Anchor Wharf are visible from various points on the riverside but the viewpoint is not considered to be of relevance to an appreciation of the significance of Chatham Dockyard and its Defences
From Ministry of Defence land at Tower Hill across the river.	Proposed by Chatham Historic Dockyard Trust.	Historically significant as the link from the Admiral to Government via telegraph. Guns were sited here for a short time to defend the dockyard and the land was subsequently part of the first training ground for siege warfare at Upnor before this moved to the Lower Lines. No public access although this may change in the future. The view from Upnor provides a better appreciation of the same heritage assets and the visual inter-relationships between them.
From Sans Pareil roundabout/western approaches to the Medway Tunnel.	Proposed by Senior Landscape Officer, Medway Council.	Not historically significant and the view from Medway City Estate provides a better appreciation of these heritage assets and the spatial and visual inter-relationships between them.

Viewpoint	Source	Initial Assessment of Overall Value/Importance of View
From The Paddock in Chatham to the Brook Theatre (Old Town Hall) with ramparts of Fort Amherst rising beyond and the scarp of the Great Lines.	Brompton Lines Conservation Area Appraisal.	Best place to appreciate the scale of the fortification and its dominating presence above the town in the valley bottom. View from Military Road is an intentional military view and an historic approach route to the site. A viewpoint almost at river level gives greatest impression of sheer bulk of Fort above, but other views better capture this relationship.
South-west down Tinkers Alley from the entrance ramp to No. 1 Smithery.	Identified in Chatham Dockyard and its Defences Management Plan - precise viewpoint location determined in consultation with Chatham Historic Dockyard Trust.	Captures both the longitudinal axis of the dockyard towards the Ropery and the view across the dry docks towards Rochester Castle and Cathedral. Captures the strong sense of place of the Georgian buildings and skyline, but alternative viewpoints provide a better appreciation.
North-east from the entrance ramp to No. 1 Smithery.	Suggested in workshops testing the assessment of recent planning applications.	Captures the south elevation of the Upper Mast House/Mould Loft but does not specifically demonstrate site attributes as well as other viewing locations.
From Mast Ponds to south and east.	Suggested by Senior Landscape Officer; Medway Council.	Oblique view of the landward end of the Covered Slips, north elevation of the Upper Mast House /Mould Loft/Wheelwrights Shop, the Timber Seasoning Sheds, Galvanising Shop, Brunel Saw Mill, Brompton Barracks and the Chatham Lines in the background. Captures the character of this northern section of the dockyard and important in a contemporary sense (because it is the first view experienced by the majority of visitors to the dockyard), although not a historical/functional one.

Appendix 6 Tables Relating to Assessment of Impact

TABLE 1 - how both the value and importance of the individual heritage assets identified within the view may be determined and the value and importance of the view as a whole. (Adapted from p19 & 20 'Seeing The History In The View' May 2011. English Heritage)

VALUE/ IMPORTANCE	DEFINITION - INDIVIDUAL HERITAGE ASSETS	DEFINITION - THE VIEW AS A WHOLE
HIGH	The asset will normally be a World Heritage Site, grade I or II* Listed Building, Scheduled Monument, grade I or II* historic park or garden or historic battlefield which is a central focus of the view and whose significance is well represented in the view. The Viewing Place (and/or Assessment Point) is a good place to view the asset or the only place from which to view that particular asset.	The view is likely to be a nationally or regionally important view and/or contain heritage assets such as World Heritage Sites, grade I or II* Listed buildings, Scheduled Monuments, grade I or II* historic parks and gardens or historic battlefields whose heritage significance is well represented in the view and which benefit from being seen in combination with each other.
MEDIUM	The asset will normally be a grade II Listed Building, grade II historic park or garden, conservation area, Locally Listed Building or other locally identified heritage resource which is a central focus of the view and whose significance is well represented in the view. The Viewing Place (and/or Assessment Point) is a good place to view the asset or the only place from which to view that particular asset. The asset may also be a World Heritage Site, grade I or II* Listed Building, scheduled monument, grade I or II* historic park or garden or historic battlefield which does not form the main focus of the view but whose significance is still well represented in the view. In this case the Viewing Place (and/or Assessment Point) may be a good, but not the best or only place to view the heritage asset.	The view is likely to be of importance at the county, borough or district level and/or contain heritage assets such as grade II Listed Buildings, grade II historic parks or gardens, conservation areas, Locally Listed Buildings or other locally identified heritage resources whose heritage significance is well represented in the view and which benefit from being seen in combination with each other. It may also be a view that contains heritage assets such as World Heritage Sites, grade I or II* Listed Buildings, Scheduled Monuments, grade I or II* historic parks or gardens or historic battlefields whose heritage significance is clearly readable, but not best represented, in this particular view.
LOW	The asset may be a grade II Listed Building, grade II historic park or garden, conservation area, Locally Listed Building or other locally identified heritage resource which does not form a main focus of the view but whose significance is still well represented in the view. In this case the Viewing Place (and/or Assessment Point) may not be the best or only place to view the heritage asset.	The view is likely to be a locally valued view and contain heritage assets such as grade II Listed Buildings, grade II historic parks or gardens, conservation areas, locally Listed Buildings or other locally identified heritage resources whose heritage significance is clearly readable, but not best represented, in this particular view.

LEFT: TABLE 2 - criteria for determining magnitude of impact on heritage significance within a view. (p22 'Seeing The History In The View' May 2011. English Heritage)

RIGHT: TABLE 3 - criteria for determining magnitude of the cumulative impact of proposals on heritage significance within a view. (p24 'Seeing The History In The View' May 2011. English Heritage)

MAGNITUDE OF IMPACT	DEFINITION
High beneficial	The development considerably enhances the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Medium beneficial	The development enhances to a clearly discernible extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Low beneficial	The development enhances to a minor extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Imperceptible/None	The development does not affect the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Low adverse	The development erodes to a minor extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Medium adverse	The development erodes to a clearly discernible extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
High adverse	The development severely erodes the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.

MAGNITUDE OF IMPACT	DEFINITION
High beneficial	The development, in conjunction with other changes, considerably enhances the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Medium beneficial	The development, in conjunction with other changes, enhances to a clearly discernible extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Low beneficial	The development, in conjunction with other changes, enhances to a minor extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Imperceptible/None	The development, in conjunction with other changes, does not change the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Low adverse	The development, in conjunction with other changes, erodes to a minor extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
Medium adverse	The development, in conjunction with other changes, erodes to a clearly discernible extent the heritage values of the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.
High adverse	The development, in conjunction with other changes, substantially affects the heritage assets in the view, or the view as a whole, or the ability to appreciate those values.

Appendix 7 Sample Worksheets

Sample feedback sheets from first workshop.

Table 2 - Visual management guidance

View: 2 – Towards covered slips

Note: It could help here to think of the view as having a foreground, middle ground and background and how development could be managed within each of the three zones.

1	What elements of the view detract from appreciation of significance? Might future development allow the effects of these to be reduced? Victoria Tower. Broadside House does not interrupt view but is unduly prominent – more muted colours would have been better.
2	What might be the positive/negative effects of future development within the view? How could it be designed to enhance rather than detract? Important that ridge line is not obscured. Flank of covered slips is prominent. – development not likely to obscure this. Development close to / on water's edge will have more of an effect on dockyard / ridgeline relationship. Bellmast gives a sense of scale against which development can be measured.
3	Does vegetation or other landscape aspects require management? Trees/vegetation obscure views to Officer's mess. Trees give quite different effect as opposed to hard hillside that would have existed. However they still allow a partial understanding of landscape dockyard relationship.
4	Should access to the viewing place be improved? What else could be done to enhance the viewing place? Upnor Castle – not publicly accessible at all times. However, the shorefront at Upnor is accessible. Inter-tidal zone (reeds etc) is unaltered by flood defences and is most attractive.

Table 1 - View selection criteria

View: 2 Upnor to covered slips

1	What do you see in the view? Refer to the list of attributes which includes buildings and other features and characteristics of the site and setting. What else do you see – other elements of the townscape or landscape? Describe the view. RIVER! Covered slips. These obscure views to rest of dockyard (no masifhouse etc). Lower boathouse. Barracks but obscured to some degree by trees. Backdrop of tree'd ridge – attractive setting (but not really lines themselves). Victoria tower spoils view. Twin towers. Chatham Maritime Buildings important in foreground – relatively low lying (below ridge line). MHS stands out because of bright/shiny finishes. 'Gap' of interface land was developed in the past. View thro' to Barracks – there is a view from Officer's mess to river – (How significant is this?) 2 What is it about the attribute that it is important you are able to see or appreciate? The Site Gazetteer may help here. Is this the best place from which to appreciate that? Iconic covered slips. Undeveloped ridgeline – relationship of dockyard to landscape, topography. Nature of this due has changed due to trees. 3 What spatial relationships are visible between different elements of the view? Does the view gain extra significance as a consequence of being able to see these relationships? Is this the best place from which to appreciate these? Relationship of river to dockyard. Topography to dockyard. Relationship Officer's mess to river? - also might be appreciated from the river subject to tree removal. 4 Is the viewing place a well-used and accessible place for the public? Yes (but less historically significant that nearby Upnor Castle – which is less publicly accessible). 5 Does the view have other cultural value for Medway that it is important to consider – not just in relation to international heritage significance? Yes – aesthetic – river and landscape and foreground – attractive. -symbol of new – twin towers – regeneration.
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Other notes?

Appendix 8 Notes on Photography

Our approach followed advice in 'Photography and photomontage in landscape and visual impact assessment', Landscape Institute Advice Note 01/11. Its aim is to represent the urban landscape under consideration as accurately as is practical.

Most of the selected views require representation by a panoramic field of view. The reference standard of 35mm film and a 50mm focal length standard lens was used to give a horizontal field of view of approximately 40 degrees. This is recommended (by the LI Advice Note) because it most closely approximates to the human eye. A 120 degree panoramic view was constructed by horizontally aligning a series of three 40 degree single frame photographs.

The photographs were taken using a zoom lens on a digital camera (see specification below). The 35mm equivalent focal length is a field of information stored in the camera data for each image. This data, combined with information on the camera sensor size, allows a field of view of approximately 40 degrees for each single frame photograph to be set.

The focal length data recorded is not recorded with sufficient accuracy for a precise field of view calculation so the 40 degree figure is an approximation. A standard fixed 50mm lens was also used to calibrate the field of view by eye.

In all cases the camera was mounted on a tripod at 1.6m above ground level. Date, time, weather, lighting conditions, direction of view and OS grid coordinates are also recorded for each view.

Camera for viewpoint 4: Sony Alpha A390
Sensor size = 23.5 x 15.7 mm; pixels 14.20 million
Lens: Minolta AF 35-70mm F4
Focal length set to: 35mm

Camera for all other viewpoints: Nikon D40X
Sensor size = 23.6 x 15.8 mm; pixels 10.75 million
Lens: AF-S DX Zoom-Nikkor 18-55mm F3.5-5.6 ED
Focal length set to: 32-34mm

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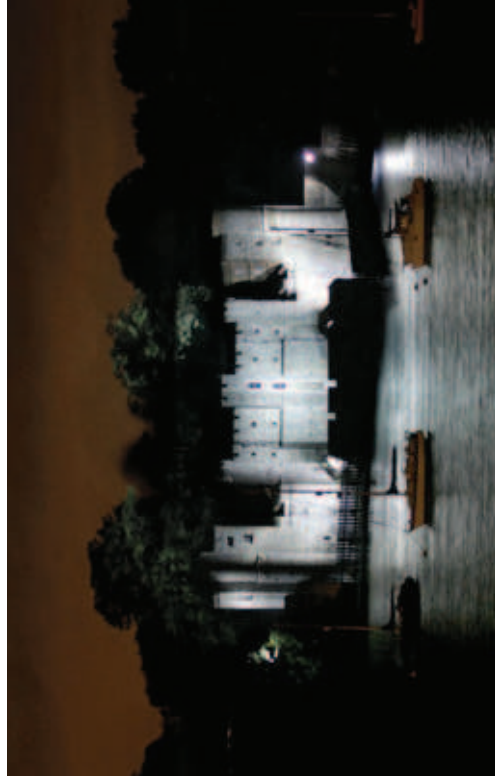
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- Chatham Maritime Trust
- Defence Infrastructure Organisation
- English Heritage
- Fort Amherst Heritage Trust
- Homes and Communities Agency
- Lower Lines Trust
- Mid Kent College
- Peel Holdings
- Royal Engineers Museum, Library and Archive
- Royal School of Military Engineering
- Universities at Medway
- Local residents



Fort Amherst © Medway Council



HMS Achilles under construction © Chatham Historic Dockyard Trust



Upnor Castle © Medway Council



APPENDIX 4

Medway Council

The Council Tax Reduction Schemes (Medway Council) 2013

Approved and Made by Council

24 January 2013

Coming into effect

1 April 2013

Medway Council makes the following Scheme in exercise of the functions conferred (a) by sections 13A(1)(a), 13A(1)(c), 13A(2), 13A(3) and Schedule 1A to the Local Government Finance Act 1992 and all other enabling powers, (b) pursuant to Regulations made under section 113(1) and (2) of 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.

Citation, commencement and application

(1) This scheme may be cited as the Council Tax Reduction Schemes (Medway Council) 2013 and comes into effect on 1 April 2013.

(2) This scheme applies in relation to the billing authority in England known as Medway Council.

Prescribed Statutory Requirements

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

The authority further sets out the statutory provisions that apply to pensioners in accordance with the Prescribed Requirements Schedules 1 to 6

Local Scheme Requirements

Subject to amendments to Parts 1,2,4, 6,7,8,9,12, and inclusion of Schedules 6A and 8A, the local scheme requirements set out the provisions of the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012, which the authority has adopted as its scheme.

Name

Proper Officer

Date

Medway Council

SCHEDULE

Medway Council Local Council Tax Reduction Scheme 2013

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PART 1

Introduction

Introduction

1. This Scheme relates to the financial year beginning 1 April 2013 and subsequent financial years until it is revised or replaced in accordance with Schedule 1A to the Local Government Finance Act 1992..
2. This Local Council Tax Reduction Scheme is implemented by Medway Council and is intended to assist people in financial need, by the award of a reduction in their council tax liability. The Government has prescribed that the reduction given to pensioners will not be any less than they would have received under the previous Council Tax Benefit provisions. The Council has decided that this protection will be extended to working age applicants in receipt of a war pension.

The Council has prescribed that the local reduction scheme will result in all working age claimants being liable to pay a minimum of 25% of their annual council tax liability, alternative maximum council tax benefit (second adult rebate) will be withdrawn, and a deduction in respect of non dependants will be extended to include those on a mean tested benefit.

3. In accordance with its duty under paragraph 5 of Schedule 1A to the Local Government Finance Act 1992, the Council will consider for each financial year whether to revise this Scheme or replace it with another scheme.
4. This scheme meets Medway Council's duties under the following provisions:
 - Equality Act 2010 s.149, 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, s21, duty to make arrangements with a view to reducing, and mitigating the effects of, child poverty in the local authority's area, and
 - Local Government Finance Act 1992, s13A and Schedule 1A and all statutory instruments made under it, 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, and
 - Armed Forces Covenant, to recognise what our Armed Forces do for us, especially the injured and the bereaved

through the inclusion of premia, allowances, disregards and extended reductions within the assessment of any reductions under this Scheme in order to protect those in financial need and to incentivise work initiatives and

additional premia intended to benefit families, lone parents and the disabled as well as disregards of child benefit and certain disability allowances. Earnings disregards and extended reduction provisions apply in specified cases. Additionally the Council will protect those persons who would be entitled to a reduction and who are in receipt of a war widows, war widowers or war disablement pension. A full equalities impact assessment has been carried out and will be subject to ongoing review.

PART 2

Interpretation

Interpretation

2. (1) — In this scheme:
- “scheme” means council tax reduction scheme
- In relation to the scheme:
- the “authority” means the billing authority that is Medway Council
- “2012 Act” means Local Government Finance Act 2012
- “Prescribed Requirements” means The Council Tax Reduction Schemes Prescribed Requirements Scheme) (England) Regulations 2012 SI 2885
- “Default Scheme” means The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2886
- “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**(a)**;
- “an AFIP” means an armed forces independence payment payable in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004**(b)**;
- “alternative maximum council tax reduction” means the amount determined in accordance with paragraph 31 and Schedule 4;
- “applicable amount” means—
- (a) in relation to a pensioner, the amount calculated in accordance with paragraph 25 and Schedule 2, and
- (b) in relation to a person who is not a pensioner, the amount calculated in accordance with—
- (i) paragraph 26 and Schedule 3; or
- (ii) paragraph 28,
- as the case may be;
- “applicant” means a person who has made an application;
- “application” means an application for a reduction under this scheme;
- “assessment period” means—
- (a) in relation to pensioners—
- (i) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 43 for the purpose of calculating the weekly earnings of the applicant; or
- (ii) in relation to any other income, the period determined in accordance with paragraph 40 for the purpose of calculating the weekly income of the applicant;
- (b) in relation to persons who are not pensioners, such period as is set out in paragraphs 47 to 49 over which income falls to be calculated;

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

(b) 2004 c.32.

“attendance allowance” means—

- (a) an attendance allowance under Part 3 of the SSCBA**(a)**;
- (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**(b)** or any analogous payment; or
- (d) any payment based on need for attendance which is paid as part of a war disablement pension;

“the authority” means a billing authority in relation to whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

“basic rate” has the meaning given by the Income Tax Act 2007**(c)**;

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995**(d)**, the State Pension Credit Act 2002**(e)** and the Welfare Reform Act 2007**(f)**;

“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**(g)** and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001**(h)** 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**(i)** 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;

-
- (a) 1992 c.4. See sections 64 to 67 of that Act in relation to attendance allowance; relevant amendments are referenced elsewhere in these Regulations.
 - (b) S.I. 1983/686; relevant amending instruments are S.I. 1984/1675, 2001/420.
 - (c) 2007 c.3. Section 989 defines basic rate by reference to section 6(2) of that Act. Section 6(2) was amended by section 5 of the Finance Act 2008 (c.9) and section 6 of, and paragraphs 1 and 2 of Schedule 2 to, the Finance Act 2009 (c.10).
 - (d) 1995 .18.
 - (e) 2002 c.16.
 - (f) 2007 c.5.
 - (g) 2000 c.14. Section 3 was amended by paragraphs 1 and 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).
 - (h) 2001 asp 8.
 - (i) S.I. 2003/431 (N.I. 9).

“child” means a person under the age of 16;

“child benefit” has the meaning given by section 141 of the SSCBA^(j);

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

“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;

^(j) Section 141 was amended by section 1 of the Child Benefit Act 2005 (c.6).
^(k) 2002 c.21; section 8 is repealed by the Welfare Reform Act 2012 (c.5), Schedule 14, Part 1 (not yet in force).

“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(a) are charged;

“contributory employment and support allowance” means ~~an contributory allowance~~ under Part 1 of the Welfare Reform Act 2007(b) as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 (c) that removes references to an income-related allowance and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;

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

“couple” has the meaning given by paragraph 4;

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

- (a) by notice upon or with a form supplied by it for the purpose of making an application; or
- (b) by reference upon or with such a form to some other document available from it and sent by electronic means or otherwise on application and without charge; or
- (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(ed);

“earnings” has the meaning given by paragraph 41, 44, 51 or 53 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(de);

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

“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment:

“work for your benefit” schemes etc.) of the Jobseekers Act 1995(fg) known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

“employment zone” means an area within Great Britain designated for the purposes of section

(a) 2002 c.21.

~~(b) (b)~~ 2007 c.5. Part 1 concerns employment and support allowance; relevant amendments are referenced elsewhere in these Regulations.

~~(c) 2012 c.5.~~

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

~~(de)~~ 2002 c.7; that definition was amended by the Communications Act 2003 (c.21), Schedule

- 17, paragraph 158.
- (ef) Section 2(1)(a) was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraphs 169 and 171 (c.1). |
 - (fg) Section 17A was inserted by the Welfare Reform Act 2009 (c.24), section 1 and amended by the Welfare Reform Act 2012 (c.5), Schedule 7, paragraphs 1 and 4, and Schedule 14, Parts 1 and 3 (not yet in force). The section is repealed by Part 4 of Schedule 14 to that Act (not yet in force). |

60 of the Welfare Reform and Pensions Act 1999^(g) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;
“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or the National Assembly for Wales;

^(g) 1999 c.30.

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

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 89, 96 or 101;

“extended reduction (qualifying contributory benefits)” means a reduction under this scheme for which a person is eligible in accordance with paragraph 88 or 95;

“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 him on 24th April 1992 or, in Scotland, on 10th April 1992;

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

“a guaranteed income payment” means a payment made under article 15(1)(c) (injury benefits) or 29(1)(a) (death benefits) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011**(a)**;

“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**(b)**;

“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**(c)** 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**(d)**; and

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

“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;

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- (a) S.I. 2011/517.
- (b) 1995 c.18. Section 1(4) was amended by the Welfare Reform and Pensions Act 1999, Schedule 7, paragraphs 1 and 2(1) and (4); the Civil Partnership Act 2004 (c.33); section 4 of the Welfare Reform Act 2009 (c.24), and is repealed by the Welfare Reform Act 2012, Schedule 14, Part 1 (not yet in force).
- (c) 2006 c.41. The definition of “health service hospital” has been amended by the Health and Social Care Act 2012 (c.7), Schedule 4, paragraph 138 (not yet in force).
- (d) 2000 c.14; section 2 was amended by the Health and Social Care Act 2008 (c.14), Schedule 5, paragraphs 1 and 3.
- (e) 1978 c.29; section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072), and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

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

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

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

“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007(a) except in Part 1 of Schedule 3;

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

“maximum council tax reduction amount” means the amount determined in accordance with paragraph 29;

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

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

“mobility supplement” means—

- (a) in relation to pensioners, a supplement to which paragraph 5(1)(a)(vii) of Schedule 5 refers;
- (b) in relation to persons who are not pensioners, a supplement to which paragraph 13 of Schedule 8 refers;

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

(b) 1996 c.18

“mover” means an applicant who changes the dwelling in which the applicant is resident, and in respect of which the applicant is liable to pay council tax, from a dwelling in the area of the authority to a dwelling in the area of a second authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 42 or 52, as the case may be;

“net profit” means such profit as is calculated in accordance with paragraph 61;

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

91, 98 and 103, the dwelling to which an applicant has moved, or is about to move, in which the applicant will be resident;

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

“occasional assistance” means any payment or provision made by a local authority, the Welsh

Ministers or the Scottish Ministers for the purposes of—

- (a) meeting, or helping to meet an immediate short-term need—
 - (i) arising out of an exceptional event or exceptional circumstances, or
 - (ii) that needs to be met to avoid a risk to the well-being of an individual, and

- (b) enabling qualifying individuals to establish or maintain a settled home, and—
 - (i) “local authority” has the meaning given by section 270(1) of the Local Government Act 1972(c); and
 - (ii) “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—
 - (aa) in prison, hospital, an establishment providing residential care or other institution, or
 - (bb) homeless or otherwise living an unsettled way of life;

(c) 1972 c. 70. The definition of local authority was amended by section 102 of, and paragraph 8 of Schedule 16 and Schedule 17 to, the Local Government Act 1985. Other amendments have been made to that definition but they are not relevant to these Regulations.

and “local authority” means a local authority in England within the meaning of the Local Government Act 1972 **(a)**; “occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“occupational pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993**(b)**;

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

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

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

“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**(d)**;

“pensioner” has the meaning given by paragraph 3(2)(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 21; “person who is not a pensioner” has the meaning given by paragraph 3(2)(b);

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

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- (a)** 1972 c.70. See section 270(1) of that Act for the definition of “local authority”; a relevant amendment was made to that definition by the Local Government Act 1985 (c.51), Schedule 17.
 - (b)** 1993 c.48. The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by S.I. 2007/3014.
 - (c)** 1996 c. 18; sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22) and sections 80AA and 80BB were inserted by section 3 of the Work and Families Act 2006 (c. 18). Relevant regulations made under these sections are S.I. 2002/2788 and S.I. 2003/921 (made under sections 80A and 80B) and S.I. 2010/1055 and S.I. 2010/1059 (made under sections 80AA and 80BB).
 - (d)** 1995 c.26; paragraph 1 has been amended by the State Pension Credit Act 2002 (c.16), Schedule 2, paragraph 39; the Welfare Reform Act 2007, Schedule 3, paragraph 13; the Pensions Act 2007 (c.22), Schedule 3, paragraph 4; and section 1 of the Pensions Act 2011 (c.19).
 - (e)** 2012 c.5.

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993**(f)**;
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988**(g)** or a substituted contract within the meaning of section

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

(g) 1988 c.1.

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**(a)**;

- (c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage to which paragraph 5 applies;

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

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

“qualifying contributory benefit” means—

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

“qualifying income-related benefit” means—

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

“qualifying person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

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

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece; “relevant week”, in relation to any particular day, means the week within which the day in question falls;

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

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**(c)** refer, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions);

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

“second authority” means the authority to which a mover is liable to make payments for the new dwelling;

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- (a) 2004 c.12
(b) 2002 c.16.
(c) S.I. 2006/214; amended by S.I. 2007/1356, 2007/2869.
(d) 2002 c.16. Section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24, paragraph 140 and S.I. 2002/1792.

“self-employed earner” is to be construed in accordance with section 2(1)(b) of the SSCBA; “self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

- (a) an employment zone programme;
- (b) a programme provided by or under arrangements made pursuant to section 2 of the Employment and Training Act 1973~~(a)~~ (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990~~(b)~~ (functions in relation to training for employment, etc.); or
- (c) the Employment, Skills and Enterprise Scheme;
- (c) a scheme prescribed in regulation 3 of the Jobseeker’s Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013; **(c)**

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

- ~~(a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978~~(c)~~;~~
- ~~(b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985~~(d)~~;~~
- ~~(c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995~~(e)~~;~~
- ~~(d) a public authority in consequence of a function under section 149 of the Equality Act 2010~~(f)~~;~~
- ~~(e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999~~(g)~~;~~
- ~~(f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001~~(h)~~;~~
- ~~(g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006~~(i)~~;~~
- ~~(h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006~~(j)~~;~~
- ~~(i) the Care Quality Commission in exercise of a function under section 4 or 5 of the Health and Social Care Act 2008~~(k)~~;~~
- ~~(j) the regulator or a private registered provider of social housing in consequence of a function under section 98, 193 or 196 of the Housing and Regeneration Act 2008~~(l)~~; or~~
- ~~(k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,~~

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- (a) 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c.19) and repealed in part by the Employment Act 1989 (c.38), Schedule 7, Part 1.
 - (b) 1990 c.35.
 - (c) S.I. 2013/276
 - ~~(c) 1978 c.29.~~
 - ~~(d) 1985 c.68; section 105 was amended by S.I. 1996/2325; the Government of Wales Act 1998 (c.38), Schedule 8, paragraph 5 and Schedule 16, paragraph 5, and S.I. 2010/866.~~
 - ~~(e) 1995 c.50; section 49A was inserted in respect of Northern Ireland by S.I. 2006/312 (N.I. 1). (f) 2010 c.15.~~
 - ~~(g) 1999 c.27; section 3 was amended by the Local Government and Public Involvement in Health Act 2007 (c.28), section 137.~~

- ~~(h) 2001 asp 10~~
- ~~(i) 2006 c.41.~~
- ~~(j) 2006 c.42.~~
- ~~(k) 2008 c.14; section 4 has been amended by section 189 of the Health and Social Care Act 2012 (c.7) but those amendments are not yet in force.~~
- ~~(l) 2008 c.17; section 193 was amended by the Localism Act 2011 (c.20), Schedule 17, paragraphs 1 and 4 and Schedule 25, Part 27.~~

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

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

“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;

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

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

“state pension credit” means state pension credit under the State Pension Credit Act 2002(c); “student” has the meaning given by paragraph 73;

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

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

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

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- (a) 1993 c.39; subsection (2) was amended by S.I. 1996/3095, 1999/1663
 - (b) 1992 c.4.
 - (c) 2002 c.16.
 - (d) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25 and amended by the Employment Act 1989 (c.38), Schedule 7, Part 1.

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012^(e); “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^(f);

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

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991^(g),

(e) 2012 c.5.

(f) 2003 c.1; subsection (2) was inserted by the Finance Act 2005 (c.7), section 19.

(g) 1991 c.56.

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002**(a)**, in so far as such charges are in respect of the dwelling which a person occupies as his home;
“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002**(b)**;
“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA**(c)**.

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

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

- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995**(d)** (circumstances in which a jobseeker’s allowance is not payable);
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or

(a) 2002 asp 3; section 29A was substituted together with sections 29B to 29G for section 29 as originally enacted by section 21 of the Water Services etc. (Scotland) Act 2005 (asp 3).

(b) 2002 c.21.

(c) Section 142 was amended by section 1 of the Child Benefit Act 2005 (c.6).

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

(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(e) (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(f) (disqualification); or

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

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- (e) 2001 c.11; section 6B was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c.24); sections 31, 113, 118, 119, 121 and 147 of, paragraphs 56 and 58 of Schedule 2, paragraphs 15 and 16 of Schedule 3, Parts 1 and 12 of Schedule 14, to the Welfare Reform Act 2012 (c.5), of which only those made by section 113 (to subsection (1)(b)) are in force. Section 7 was amended by section 14 of, and Part 3 of Schedule 3 to, the State Pension Credit Act 2002 (c.16); sections 28 and 49 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007 (c.5); sections 9, 24 and 58 of, and paragraphs 9 and 11 of Schedule 2, Part 1 of Schedule 4 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (of which those made by sections 9, 31 and Schedule 7 are not yet in force); S.I. 2011/2298; sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of Schedule 2, paragraphs 15 and 17 of Schedule 3 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, none of which are yet in force. Section 8 has been repealed by section 147 of, and Part 1 of Schedule 14, to the Welfare Reform Act 2012, but that repeal is not yet in force. Amendments have also been made by sections 1, 24, and 58 of, and Part 1 of Schedule 4 and Part 3 of Schedule 7 to, the Welfare Reform Act 2009; sections 31, 48, 113 and 147 of, and paragraphs 56 and 60 of Schedule 2, paragraph 12 of Schedule 7 and Part 12 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force. Section 9 was amended by section 14 of, and Part 3 of Schedule 2 to, the State Pension Credit Act 2002; sections 28 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007; sections 9 and 58 of, and Part 1 of Schedule 7 to, the Welfare Reform Act 2009, none of which are in force; sections 31, 113 and 147 of, and paragraphs 56 and 61 of Schedule 2 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force.
- (f) 2007 c.5.

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

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

(7) References in these Regulations to an applicant participating as a service user are to –

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

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

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

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

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

Application of scheme: pensioners and persons who are not pensioners

3. (1) This scheme applies to—

- (a) pensioners who fall within any of classes A to C(bc); and
- (b) persons who are not pensioners who fall within any of classes D to H(ed).

(2) In this scheme—

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

Meaning of “couple”

4. (1) In this scheme “couple” means—
- (a) a man and woman who are married to each other and are members of the same household;
 - (b) a man and woman who are not married to each other but are living together as husband and wife;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (2) Two people of the same sex 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.
-

(a) S.I. 2002/1792.

~~(b)~~ [SI 2014 3312](#)

~~(bc)~~ See paragraphs 13 to 15 of this scheme.

~~(ed)~~ See paragraphs 16 to 18(B) of this scheme.

Polygamous marriages

5. (1) This paragraph applies to any case where—
- (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
 - (b) either party to the marriage has for the time being any spouse additional to the other party.
- (2) For the purposes of paragraph 4 (meaning of “couple”) neither party to the marriage is to be taken to be a member of a couple.

Meaning of “family”

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

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

7. (1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom paragraph 6(2) applies.
- (2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person must be treated for the purposes of sub-paragraph (1) as normally living with—
- (a) the person who is receiving child benefit in respect of that child or young person, or

(a) Section 145A inserted by the Tax Credits Act 2002 (c.21), section 55(1).

(b) 2000 c.35.

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

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

Households

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

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

- (a) placed with the applicant or his partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989(a) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out or placed with the applicant or his partner under a relevant enactment; 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(b) or the Adoption Agencies (Scotland) Regulations 2009(c) or the Adoption (Northern Ireland) Order 1987(d).

(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.

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

(b) 2002 c.38.

(c) S.I. 2009/154.

(c) S.I. 1987/2203 (N.I. 22)

(d) 1955 c.18.

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

- (a) that child or young person lives with the applicant for part or all of that reduction week;
- and
- (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(5) In this paragraph "relevant enactment" means—

- (a) the Army Act 1955**(e)**;
- (b) the Air Force Act 1955**(f)**;
- (c) the Naval Discipline Act 1957**(g)**;
- (d) the Matrimonial Proceedings (Children) Act 1958**(h)**;
- (e) the Social Work (Scotland) Act 1968**(i)**;
- (f) the Family Law Reform Act 1969**(j)**;
- (g) the Children and Young Persons Act 1969**(k)**;
- (h) the Matrimonial Causes Act 1973**(l)**;
- (i) the Children Act 1975**(m)**;
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978**(n)**;

(e) 1955 c.19

(f) 1957 c.53

(g) 1958 c.40.

(h) 1968 c.49

(i) 1969 c.46.

(j) 1969 c.54.

(k) 1973 c.18.

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

(n) 1978 c.22.

- (k) the Adoption and Children (Scotland) Act 2007**(a)**;
- (l) the Family Law Act 1986**(b)**;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995**(c)**;
- (na) the Children’s Hearings (Scotland) Act 2011 **(d)**;and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012**(e)**.

Non-dependants

9. (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) if the applicant is polygamously married—
 - (i) where the applicant has (alone or jointly with his partner) an award of universal credit, any—
 - (aa) party to such a marriage other than the applicant’s partner; and
 - (bb) any child or young person who is a member of his household and for whom he or his partner or another party to the polygamous marriage is responsible; or
 - (ii) in any other case, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- (c) a child or young person who is living with the applicant but who is not a member of his household by virtue of paragraph 8 (households);
- (d) subject to sub-paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act (persons liable to pay council tax);
- (e) subject to sub-paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant’s partner in respect of the occupation of the dwelling;
- (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

(a) 2007 asp 4
 (b) 1986 c.55.
 (c) 1995 c.36.
 (d) 2011 asp 1.
 (e) 2012 c.10.

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

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

Remunerative work

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

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

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to the date of application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

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

establishing the average hours for which he is engaged in work.

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

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

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

(7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.

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

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

PART 3

Procedural matters

Procedure for reduction applications and appeals against reduction decisions

- 11.** Schedule 1 contains provisions about the procedure—
- (a) by which a person may apply for a reduction under this scheme;
 - (b) by which a person may make an appeal against certain decisions of the authority;
 - (c) by which a person can apply to the authority for a reduction under section 13A(1)(c) of the 1992 Act.

PART 4

Classes of person entitled to a reduction under this scheme

Classes of person entitled to a reduction under this scheme

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

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

Class A: pensioners whose income is no greater than the applicable amount

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

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

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

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

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

(a) See section 6(5) of the Local Government Finance Act 1992 for the meaning of "resident" in relation to a dwelling.

Class C: alternative maximum council tax reduction – pensioners

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

(2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate incomes, of one or more residents to whom this sub-paragraph applies (3) Sub-paragraph (2) applies to any other resident of the dwelling who—

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

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

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

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

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

Class F: alternative maximum council tax reduction – persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension

18. (1) Subject to paragraphs 16 and 17, on any day class F consists of any person who is not a pensioner and who receives any of the following, namely - :
- (i) a war disablement pension; and
 - (ii) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (iii) 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;
- (iv) a guaranteed income payment;
- (v) 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;
- (vi) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (i) to (iv) above;
- (vii) 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.

and;

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

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

(3) Sub-paragraph (2) applies to any other resident of the dwelling who—

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

that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;

- (d) is not a person who jointly with the applicant for reduction falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

(4) A person referred to in sub-paragraph (1) is to be given further reductions as the authority thinks fit under section 13A(1)(c) of the 1992 Act.

(5) On any day an applicant who falls within Class F may also fall within any of the Classes A to H, but not more than one at any one period of time.

Class G: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension whose income is less than the applicable amount

18(A). (1) Subject to paragraphs 16 and 17, on any day class G consists of any person who is not a pensioner and who receives any of the following, namely - :

- (i) a war disablement pension; and
- (ii) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (iii) 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;
 - (iv) a guaranteed income payment;
 - (v) 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;
 - (vi) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (i) to (iv) above;
 - (vii) 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.
- and;

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

(2) A person referred to in sub-paragraph (1) is to be given further reductions as the authority thinks fit under section 13A(1)(c) of the 1992 Act.

(3) On any day an applicant who falls within Class G may also fall within any of the Classes A to H, but not more than one at any one period of time.

Class H: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension whose income is greater than the applicable amount

18(b). (1) Subject to paragraphs 16 and 17, on any day class H consists of any person who is not a pensioner and who receives any of the following, namely - :

- (i) a war disablement pension; and
- (ii) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (iii) 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;
- (iv) a guaranteed income payment;
- (v) 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;
- (vi) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (i) to (iv) above;
- (vii) 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.

and;

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

(2) A person referred to in sub-paragraph (1) is to be given further reductions as the authority thinks fit under section 13A(1)(c) of the 1992 Act.

(3) On any day an applicant who falls within Class H may also fall within any of the Classes A to H, but not more than one at any one period of time.

Periods of absence from a dwelling

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

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

- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
 - (i) the person resides in that accommodation;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks, where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—
 - (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period is unlikely to exceed 13 weeks; and

- (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—
 - (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
 - (iii) the person is a person to whom sub-paragraph (3) applies; and
 - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

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

- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
 - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
 - (ii) in premises approved under section 13 of the Offender Management Act 2007**(a)**, or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;

(a) 2007 c.21.

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

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

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983**(a)**, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003**(b)** or the Criminal Procedure (Scotland) Act 1995**(c)** or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986**(d)**); and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952**(e)** or the Prisons (Scotland) Act 1989**(f)**.

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

- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
- (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;
- (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident

(a) 1983 c.20.
 (b) 2003 asp 13.
 (c) 1995 c.46.
 (d) S.I. 1986/595 (N.I. 4)
 (e) 1952 c.52.
 (f) 1989 c.45.

(6) In this paragraph—

“medically approved” means certified by a medical practitioner;

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

“residential accommodation” means accommodation which is provided in—

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield Home; or
- (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- (e)

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

PART 5

Classes of person excluded from this scheme

Classes of person excluded from this scheme

20. The classes of person described in paragraphs 21 to 24 are not entitled to a reduction under this scheme.

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

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

(2) 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 or Article 6 of Council Directive No 2004/38/EC(a);
- (aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is—
 - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
 - (ii) a family member (within the meaning of Regulation 7 of those Regulations) of such a jobseeker;
- (ab) Article 45 of the Treaty on the functioning of the European Union (b) (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland); or
- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).

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

- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in paragraph (a) within the

- meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
-

- (a) OJ No L 158, 30.4.04, p 77.
- (b) A consolidated version of this Treaty was published in the Official Journal on 30.3.2010 C 83.

- (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(c) where that leave is-
 - (i) discretionary leave to enter or remain in the United Kingdom,
 - (ii) leave to remain under the Destitution Domestic Violence concession (d) which came into effect on 1st April 2012, or
 - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005 (e);
- (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(f) 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, ~~an income-based jobseeker's allowance~~ or on an income-related employment and support allowance; ~~or~~ (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4); or
- (i) a person who is treated as a worker for the purpose of the definition of "qualified person" in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (g) (right of residence of a Croatian who is an "accession State national subject to worker authorisation")

(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(h);
 "EEA Regulations" means the Immigration (European Economic Area) Regulations 2006(i).

(9) Transitional Provision (j)

(9)(1) Sub-paragraph (5)(ha) of paragraph 21 of Part 5 does not apply to a person who, on 31st March 2015 –

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

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

(2) The events are –

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

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

(3) In this regulation the "Act" means the Local Government Finance Act 1992.

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

22. (1) Subject to paragraph (1A), persons subject to immigration control are not entitled to a reduction under this scheme.

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

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

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- (c) 1971 c.77
 - (d) The Destitution Domestic Violence concession is published by the Home Office at <http://www.ukba.homeoffice.gov.uk/>.
 - (e) S.I. 2005/1379 as amended by S.I. 2013/630 and other amending instruments which are not relevant for this amendment.
 - (f) 1999 c.33
 - (g) S.I. 2013/1460.
 - (h) Relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c.41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations.
 - (i) S.I. 2006/1003; relevant amending instruments are S.I. 2011/544, 2012/1547, 2012/2560.
 - (j) S.I. 2014/3312
 - (kj) Cmd. 9512

Class of person excluded from this scheme: capital limit

23. (1) The class of person described in this paragraph consists of any person whose capital exceeds £16,000**(a)**.

(2) Capital for the purposes of sub-paragraph (1) is to be calculated in accordance with Part 10 of this scheme.

Class of person excluded from this scheme: students

24. The class of person described in this paragraph consists of any student to whom paragraph 75(1) applies (except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of paragraph 18).

PART 6

Applicable amounts

Applicable amounts: pensioners

25. (1) The applicable amount for a pensioner**(b)** for a week is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 (personal allowance);
 - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule (child or young person amounts);
 - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);
 - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).

(2) In Schedule 3—

“additional spouse” means a spouse of either party to the marriage who is additional to the other party to the marriage;;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005**(c)**.

Applicable amounts: persons who are not pensioners

26. (1) Subject to paragraphs 27 and 28, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as may apply in his case—
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 3;
 - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of that Schedule;
 - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of that Schedule (family premium);

(a) See Part 10, Chapters 1 and 7, of this scheme in relation to the capital of an applicant and the calculation of tariff income from capital.
(b) Including pensioners in polygamous marriages, by virtue of paragraph 5 of the scheme.
(c) S.I. 2005/3360

- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
- (e) the amount of either the—
 - (i) work-related activity component; or
 - (ii) support component,

which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components^(a));

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

(2) The authority may at any time while this Scheme is in force prescribe alternative sums in substitution for the Applicable Amounts specified in Schedule 3 to this Scheme, having had regard to any uprating of welfare benefits pursuant to the Welfare Benefits Uprating Act 2013 or any order made under it or any legislation amending it, replacing it or re-enacting it, and the provisions of Part 6 of this Scheme shall be construed accordingly.

(3) In Schedule 3—

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

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

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005^(c).

Polygamous marriages: persons who are not pensioners

27. (1) This paragraph applies where an applicant who is not a pensioner is a member of a polygamous marriage and does not have (alone or jointly with a party to a marriage), an award of universal credit.

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

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

(a) The amount of the components is set out in Part 6 of that Schedule.

(a)(b) S.I. 2008/794.
(c) S.I. 2005/3360.

|

- (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 2 of that Schedule (main phase employment and support allowance) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);
- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);
- (f) the amount of either the—
 - (i) work-related activity component; or
 - (ii) support component,
 which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);
- (g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

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

28. (1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner—

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

an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).

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

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

(3) The adjustment referred to in sub-paragraph (1) is to multiply the maximum amount by 12 and divide the product by 52.

(4) In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the

Welfare Reform Act 2012(a).

(a) 2012 c.5.

PART 7

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

Maximum council tax reduction amount under this scheme: pensioners

29. (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax reduction amount in respect of a day is 100 per cent of the amount A/B where—
- (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
 - (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions: pensioners).

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

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

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

(5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to a reduction under this scheme) applies.

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

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

- 29A (1) Subject to paragraphs (2) to (4), the amount of a person's maximum council tax reduction in respect of a day is 75% per cent of the amount A/B where –

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

less any deductions in respect of non-dependants which fall to be made under paragraph 30A (non-dependant deductions – persons who are not pensioners).

(2) Where an applicant falls within paragraphs 18, or 18A, or 18B (Classes F, or G, or H: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension), the amount of a person's maximum council tax reduction in respect of a day is 100% per cent of the amount A/B.

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

(4) Subject to paragraph (5), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with paragraph (1) or (2), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

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

(6) The reference in paragraph (4) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 75(1) applies.

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

Non-dependant deductions: pensioners

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

- (a) in respect of a non-dependant aged 18 or over in remunerative work, ~~£11.3644.25~~ x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, ~~£3.743.70~~ x 1/7.

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

that his normal gross weekly income is—

- (a) less than £~~189.00~~~~188.00~~, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
- (b) not less than £~~189.00~~~~188.00~~ but less than £~~328.00~~~~326.00~~, the deduction to be made under this paragraph is £~~7.527.45~~ x 1/7;
- (c) not less than £~~328.00~~~~326.00~~ but less than £~~408.00~~~~406.00~~, the deduction to be made under this paragraph is £~~9.499.40~~ x 1/7.

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

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

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
- (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.

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

- (a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (additional condition for the disability premium); or
- (b) receiving in respect of himself—
 - (i) attendance allowance, or would be receiving that allowance but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (i) the care component of the disability living allowance, or would be receiving that component but for—

- (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
- (bb) an abatement as a result of hospitalisation; or
- (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
- (iv) an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

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

- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full-time student within the meaning of Part 11 (students); or
- (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
 - (i) “patient” has the meaning given in paragraph 19(6), and
 - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (e) he is not residing with the applicant because he is a member of the regular or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006 (a)) who is absent, while on operations, from the dwelling usually occupied as their home.

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

- (a) who is on income support, state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance; ~~or~~
- (b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers; ~~or~~
- (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.

(8A) For the purposes of sub-paragraph (8), “earned income” has the

meaning given in regulation 52 of the Universal Credit Regulations 2013 (b).:

(a) 2006 c.52..

(b) 2013/376 to which there are amendments not relevant to these Regulations.

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

- (a) any attendance allowance, disability living allowance, personal independence payment or an AFIP received by him;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

Non-dependant deductions – persons who are not pensioners

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

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £11.3644.25 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £3.743.70 x 1/7.

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

- (a) less than £189.00488.00, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
- (b) not less than £189.00488.00 but less than £328.00326.00, the deduction to be made under this paragraph is £7.527.45 x 1/7;
- (c) not less than £328.00326.00 but less than £408.00406.00, the deduction to be made under this paragraph is £9.499.40 x 1/7.

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

(4) In applying the provisions of sub-paragraph (2) in the case of a

couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
- (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.

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

- (a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (additional condition for the disability premium); or
- (b) receiving in respect of himself—
 - (i) attendance allowance, or would be receiving that allowance but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (ii) the care component of the disability living allowance, or would be receiving that component but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
 - (iv) an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

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

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

- (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full-time student within the meaning of Part 11 (students); or
- (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
 - (i) “patient” has the meaning given in paragraph 19(6), and
 - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(8) For classes of persons G and H no deduction is to be made in respect of a non-dependant—

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

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

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

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

- (a) any attendance allowance, disability living allowance, personal independence payment or an AFIP received by him;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

- (10) There shall be substituted for the fixed monetary sums specified in paragraph 30A(1) of this Scheme (non-dependant deductions in respect of a day referred to in paragraph 29(A)) the fixed monetary sums specified in Paragraph 8(1) of Part 3 of Schedule 1 to the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 or any legislation amending them, replacing them or re-enacting them. For the avoidance of doubt, this

does not have the effect of causing any other provision in Part 3 of Schedule 1 to the Regulations to apply to paragraph 30A(1) of this Scheme.

- (11) There shall be substituted for the fixed monetary sums specified in paragraph 30A(2) of this Scheme (non-dependant deductions – gross weekly income) the fixed monetary sums specified in Paragraph 8(2) of Part 3 of Schedule 1 to the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 or any legislation amending them, replacing them or re-enacting them. For the avoidance of doubt, this does not have the effect of causing any other provision in Part 3 of Schedule 1 to the Regulations to apply to paragraph 30A(2) of this Scheme.

PART 8

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

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

31. (1) Subject to sub-paragraphs (2) and (3) and (4), the alternative maximum council tax reduction in respect of a day where the conditions set out in paragraph 15 (alternative maximum council tax reduction: pensioners) or 18 (alternative maximum council tax reduction: persons who are not pensioners and who are in receipt of a war pension, war disablement pension, war widows pension, war widower's pension) are fulfilled, is the amount determined in accordance with Schedule 4 (amount of alternative council tax reduction).

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

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

(4) There shall be substituted for the fixed monetary sums specified in Column 1 (Second Adult) of the table in paragraph 1 of Schedule 4 to this Scheme the fixed monetary sums specified in Column 1 (Second Adult) of the table in Paragraph 1 of Schedule 3 to the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 or any legislation amending them, replacing them or re-enacting them.

PART 9

Amount of reduction under this scheme

Amount of reduction under this scheme: Classes A to H

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

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

(3) Where the person is within class B, E or H(b), that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f) or 17(f) or 18(B)(f), as the case may be.

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

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

- (a) sub-paragraph (2) or sub-paragraph (3), and
- (b) sub-paragraph (4), apply to a person.

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

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

(a) As to which, see paragraphs 13 and 16 respectively.
(b) As to which, see paragraphs 14 and 17 respectively.
(c) As to which, see paragraphs 15 and 18 respectively

PART 10

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

CHAPTER 1

Income and capital: general

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

33. (1) The income and capital of—

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

is to be calculated in accordance with the provisions of this Part.

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

(3) Except where paragraph 37 applies, where an applicant or the partner of an applicant is married polygamously to two or more members of his household—

- (a) the applicant must be treated as possessing capital and income belonging to each such member; and
- (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

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

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

(2) Except where—

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

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

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

CHAPTER 2

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

Applicant in receipt of guarantee credit: pensioners

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

Calculation of applicant’s income and capital in savings credit only cases: pensioners

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

(2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—

- (a) the amount of any savings credit payable;
- (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 57(1)(c) (calculation of income on a weekly basis);
- (c) the higher amount disregarded under this scheme in respect of—
 - (i) lone parent’s earnings; or
 - (ii) payments of maintenance, whether under a court order or not, which is made or due to be made by—
 - (aa) the applicant’s former partner, or the applicant’s partner’s former partner; or

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

- (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
- (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 5 (sums disregarded from applicant's earnings: pensioners);
- (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
- (f) paragraph 34 (circumstances in which capital and income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
- (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act^(b) (power of billing authority to reduce amount of council tax payable);
- (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5 (exempt work).

(3) Paragraphs 39 to 46 (calculation of income: pensioners) and 57 to 61 (calculation of income: pensioners and persons who are not pensioners) do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).

(4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 63, 65 to 68 and 70 (calculation of capital: pensioners).

(5) This sub-paragraph applies if—

- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less or the authority determines his capital as being £16,000 or less;
- (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
- (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

(b) Section 13A is substituted by section 10 of the Local Government Finance Act 2012 (c.17).

CHAPTER 3

Income and capital where there is an award of universal credit

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

37. (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 must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.

(3) The authority may only adjust the amount of the income as adjusted in accordance with sub-paragraph (2) so far as necessary to take into account—

- (a) the amount of the award of universal credit, determined in accordance with sub-paragraph (3);
- (b) paragraph 34 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
- (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).

(4) The amount for the award of universal credit to be taken into account for the purposes of sub-paragraph (3)(a) is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.

(5) Paragraph 34 (income and capital of non-dependant to be treated as applicant's) applies for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (3).

(6) 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.

CHAPTER 4

Income: other pensioners

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

38. Where neither paragraph 35 (applicant in receipt of guarantee credit: pensioners) nor 36 (applicant in receipt of savings credit only: pensioners) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 39 to 46 and 57 to 62 (calculation of income) and Chapter 7 of this Part (calculation of capital).

Meaning of "income": pensioners

39. (1) For the purposes of classes A to C in this scheme, "income" means income of any of the following descriptions—
- (a) earnings;
 - (b) working tax credit;
 - (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
 - (d) income from annuity contracts (other than retirement pension income);
 - (e) a war disablement pension or war widow's or widower's pension;
 - (f) a foreign war disablement pension or war widow's or widower's pension;
 - (g) a guaranteed income payment;
 - (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(a), in any case where article 31(2)(c) applies;
 - (i) income from capital(b) other than capital disregarded under Part 1 of Schedule 9;
 - (j) social security benefits, other than retirement pension income or any of the following benefits—
 - (i) disability living allowance;
 - (ii) personal independence payment;
 - (iii) an AFIP;
 - (iv) attendance allowance payable under section 64 of the SSCBA (entitlement to attendance allowance);
 - (v) an increase of disablement pension under section 104 (increase for constant attendance) or 105 of that Act (increase for exceptionally severe disablement);
 - (vi) child benefit;

(a) S.I. 2011/517.

(b) See paragraph 71 for the calculation of income from capital so far as relating to pensioners

- (vii) any guardian's allowance payable under section 77 of the SSCBA (guardian's allowance);
- (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act (increases for dependants);
- (ix) any—
 - (aa) social fund payment made under Part 8 of the SSCBA (the social fund), or
 - (bb) occasional assistance;
- (x) Christmas bonus payable under Part 10 of that Act (Christmas bonus for pensioners);
- (xi) housing benefit;
- (xii) council tax benefit;
- (xiii) bereavement payment;
- (xiv) statutory sick pay;
- (xv) statutory maternity pay;
- (xv) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA(c);
- (xvi) additional statutory paternity pay payable under Part 12ZA of the SSCBA;
- (xviii) statutory adoption pay payable under Part 12ZB of that Act (statutory adoption pay);
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits mentioned above;

(c) Part 12ZA was inserted by section 2 and Part 12ZB was inserted by section 4 of the Employment Act 2002 (c.22).

- (l) a payment made—
 - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006**(a)** (award for children who have reached the child's age limit), in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order (unemployability allowances: children who have reached the child's age limit), in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979**(b)**;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
 - (i) under a court order;
 - (ii) under an agreement for maintenance; or
 - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under—
 - (i) the Civil List Act 1837**(c)**,
 - (ii) the Civil List Act 1937**(d)**,
 - (iii) the Civil List Act 1952**(e)**,
 - (iv) the Civil List Act 1972**(f)**, or
 - (v) the Civil List Act 1975**(g)**;
- (u) any income in lieu of that specified in paragraphs (a) to (r);

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- (a) S.I. 2006/606
 - (b) 1979 c.41.
 - (c) 1837 c.2.
 - (d) 1937 c.32.
 - (e) 1952 c.37.
 - (f) 1972 c.7.
 - (g) 1975 c.82.

- (v) any payment of rent made to an applicant who—
 - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
 - (ii) occupies part of the property; and
 - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.

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

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

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

- (a) the Social Security (Overlapping Benefits) Regulations 1979**(a)**;
- (b) the Social Security (Hospital In-Patients) Regulations 1975;
- (c) section 30DD or section 30E of the SSCBA**(b)** (reductions in incapacity benefit in respect of pensions and councillor's allowances);
- (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it.

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

- (a) made between a person ("the lender") and the applicant;
- (b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
- (c) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home.

(a) S.I.1979/597.

(b) Section 30DD was inserted by the Welfare Reform and Pensions Act 1999 (c.30), section 63; section 30E was inserted by the Social Security (Incapacity for Work) Act 1994 (c.18), section 3. Both sections are repealed by the Welfare Reform Act 2007 (c.5), Schedule 8 (not yet in force).

Calculation of weekly income: pensioners

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

- (a) does not exceed a week, the whole of that payment is to be included in the applicant's weekly income;
- (b) exceeds a week, the amount to be included in the applicant's weekly income is to be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
 - (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
 - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.

(2) Sub-paragraph (3) applies where—

- (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
- (b) the amount of the applicant's income fluctuates and has changed more than once.

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

- (a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or
- (b) in any other case, on the basis of—
 - (i) the last two payments if those payments are one month or more apart;
 - (ii) the last four payments if the last two payments are less than one month apart; or
 - (iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.

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

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

(6) This sub-paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982;
or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
and
- (c) any payment which is made on an occasional basis.

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

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

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

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

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

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

(12) Schedule 9 (capital disregards: pensioners) has effect so that—

- (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
- (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 71 (calculation of tariff income from capital: pensioners).

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

Earnings of employed earners: pensioners

41. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner who is a pensioner, means any remuneration or profit derived from that employment and includes—
- (a) any bonus or commission;
 - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
 - (c) any payment in lieu of notice;
 - (d) any holiday pay;
 - (e) any payment by way of a retainer;
 - (f) any payment made by the applicant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant’s employer in respect of—
 - (i) travelling expenses incurred by the applicant between his home and place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant’s absence from home;
 - (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person’s earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001**(a)**;
 - (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
 - (i) statutory paternity pay payable under Part 12ZA of that Act;
 - (j) statutory adoption pay payable under Part 12ZB of that Act;
 - (k) any sums payable under a contract of service—
 - (i) for incapacity for work due to sickness or injury; or
 - (ii) by reason of pregnancy or confinement.

(2) Earnings does not include—

- (a) subject to sub-paragraph (3), any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension;
- (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
- (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996**(b)** in respect of unfair dismissal or unlawful discrimination;

(a) S.I. 2001/1004.
(b) 1996 c.17.

- (f) any payment in respect of expenses arising out of the applicant's participation ~~as 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)(g).

Calculation of net earnings of employed earners: pensioners

42. (1) For the purposes of paragraph 57 (calculation of income on a weekly basis), the earnings of an applicant who is a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 40(5) and Schedule 5 (sums to be disregarded from earnings: pensioners), be his net earnings.

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

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

- (i) income tax;
- (ii) primary Class 1 contributions under the SSCBA;

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

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

(d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional 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.

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

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

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

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

(5) Where the earnings of an applicant are determined under paragraph 40(2)(b) (calculation of weekly income: pensioners) 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 the Income Tax Act 2007(a) (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Calculation of earnings of self-employed earners: pensioners

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

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

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

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

(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

Earnings of self-employers earners: pensioners

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

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

- (a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
- (b) any payment made by a local authority to an applicant—
 - (i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989(a) or, as the case may be, section 26(1) of the Children (Scotland) Act 1995(b); or
 - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009(c) or who is a kinship carer under those Regulations;
- (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
- (d) any payment made to the applicant or his partner for a person (“the person concerned”) who is not normally a member of the applicant’s household but is temporarily in his care, by—
 - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 - (ii) a voluntary organisation;
 - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(d);
 - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006(e); or
 - (v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(f);
- (e) any sports award.

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- a) 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but is not yet in force in Wales.
 - b) 1995 c.36; section 26 was amended by paragraph 1 of Schedule 3 to the Adoption and Children (Scotland) Act 2007 (asp 4).
 - c) S.I. 2009/210.
 - d) 1948 c.29; section 26(3A) was inserted by section 42(4) of the National Health Service and Community Care Act 1990 (c.19).
 - e) 2006 c.41. The Commissioning Board is established under section 1H of that Act (inserted by section 9 of the Health and Social Care Act 2012 (c.7)); section 14D was inserted by section 25 of the 2012 Act.
 - f) 2006 c.42.

Notional income: pensioners

45. (1) An applicant who is a pensioner is to be treated as possessing—
- (a) subject to sub-paragraph (2), the amount of any retirement pension income—
 - (i) for which no claim has been made; and
 - (ii) to which he might expect to be entitled if a claim for it were made;
 - (b) income from an occupational pension scheme which the applicant elected to defer.
- (2) Sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred—
- (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
 - (b) a shared additional pension payable under section 55A of the SSCBA;
 - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965(a).
- (3) For the purposes of sub-paragraph (2), entitlement has been deferred—
- (a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;
 - (b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and
 - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.
- (4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit—
- (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
 - (b) fails to purchase an annuity with the funds available in that scheme; and
 - (c) either—
 - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or
 - (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
 - (iii) income withdrawal is not available to him under that scheme.

(a) 1965 c.51.

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

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

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

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

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

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

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

(12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participatingon-inas-a service user group.

(13) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority 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 apply, to the date on which the altered rate is to take effect.

(a) S.I. 2005/454.

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

- (a) determine the income and capital of that applicant in accordance with paragraph 36(1) (calculation of applicant's income in savings credit only cases: pensioners) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and
- (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).

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

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004**(b)**.

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

Income paid to third parties: pensioners

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

(2) Sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—

(b) 2004 c.12.

- (a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980**(a)**;
 - (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (c) the person referred to in paragraph (a) and his partner does not possess, or is not treated as possessing, any other income apart from that payment.
- (3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the applicant's participating ~~in~~ in a service user ~~group~~.

CHAPTER 5

Income: persons who are not pensioners

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

47. (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—
- (a) over a period immediately preceding the reduction week in which the application is made or treated as made and being a period of—
 - (i) 5 weeks, if he is paid weekly; or
 - (ii) 2 months, if he is paid monthly; or
 - (b) whether or not paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the application is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.
- (2) Where the applicant has been in his employment for less than the period specified in 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 weekly earnings from that employment his average weekly earnings must be estimated by reference to those earnings;
 - (b) in any other case, the authority must estimate the applicant's average weekly earnings**(b)**.

(a) 1980 c.46.
 (b) Powers in section 14A of the LGFA 1992 may be used to confer power to require employers to provide information for these purposes.

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

(4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 51 and 52 (earnings of employed earners: persons who are not pensioners).

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

48. (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed a year.

(2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 53, 61 and 62 (earnings, and net profit, of self-employed earners).

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

49. (1) The income of an applicant who is not a pensioner which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks; and nothing in this paragraph authorises an authority to disregard any such income other than that specified in Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners).

(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 54 (calculation of income other than earnings: persons who are not pensioners).

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

50. (1) For the purposes of paragraphs 47 (average weekly earnings of employed earners), 49 (average weekly income other than earnings) and 59 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—

(a) does not exceed a week, the weekly amount is to be the

amount of that payment; (b) exceeds a week, the weekly amount is to be determined—

- (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
- (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.

(2) For the purposes of paragraph 48 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

Earnings of employed earners: persons who are not pensioners

51. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner of a person who is not a pensioner, means any remuneration or profit derived from that employment and includes—
- (a) any bonus or commission;
 - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
 - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
 - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
 - (e) any payment by way of a retainer;
 - (f) any payment made by the applicant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant’s employer in respect of—
 - (i) travelling expenses incurred by the applicant between his home and place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant’s absence from home;
 - (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
 - (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
 - (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
 - (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under

- any enactment having effect in Northern Ireland;
- (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
- (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.

(2) Earnings does not include—

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

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

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

52. (1) For the purposes of paragraph 47 (average weekly earnings of employed earners: persons who are not pensioners), the earnings of an applicant who is not a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.

(2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(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—
- (b)
 - (i) income tax;
 - (ii) primary Class 1 contributions under the SSCBA;
- (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under

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

(4) In this 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 47(2)(b) (average weekly earnings of employed earners: classes D to F), his net earnings is to be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007^(a) (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009

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

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

(2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 8 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor does it include any sports award.

(3) This paragraph applies to—

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

where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

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

- (a) the amount of reduction under this scheme to which the applicant would have been entitled had the payment not been made, plus
- (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant’s case.

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

54. (1) For the purposes of paragraph 49 (average weekly income other than earnings: persons who are not pensioners), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 55 (capital treated as income: persons who are not pensioners).

(2) There is to be disregarded from the calculation of an applicant’s

gross income under sub- paragraph (1), any sum, where applicable, specified in Schedule 8.

(3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under 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(a), 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 (7) applies, is to be calculated by applying the formula—

$$(A - (B \times C)) / D$$

where—

- (a) A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 81(5) (costs of travel, books and equipment);
- (b) B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;

(a) S.I. 2008/794.

- (c) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 81(2) (treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;
- (d) D = the number of reduction weeks in the assessment period.

(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 (7) applies, is to be calculated by applying the formula in sub-paragraph (8) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 81(5).

(9) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 11 (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—

- (c) 1st January and ending on 31st March;
- (d) 1st April and ending on 30th June;
- (e) 1st July and ending on 31st August; or
- (f) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 76(7) 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 41(2) or 51(2) (payments not earnings) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

Capital treated as income: persons who are not pensioners

55. (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 Chapter 7 of this Part exceeds £16,000, be treated as income.

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

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

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

(5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

Notional income: persons who are not pensioners

56. (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under a council tax reduction scheme or increasing the amount of the reduction.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;

- (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- (d) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a);
- (e) any sum to which paragraph 51(a) of Schedule 10 refers;
- (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
- (g) child tax credit;
- (h) working tax credit, or
- (i) any sum to which sub-paragraph (11) applies,

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

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

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

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

- (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);

- (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994**(a)** (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**(b)**;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
- (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980**(c)**;
 - (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,

(a) 1994 c.21.
 (b) S.I. 1996/207.
 (c) 1980 c.46

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 42(2) or 52(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007(a) (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
 - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
 - (c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.
- (11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.

Uprating of sums disregarded in the calculation of income

56A The authority may at any time while this Scheme is in force prescribe alternative sums in substitution for the fixed monetary sums specified in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12(4), 18(1), and 18(3)(c) of Schedule 7 to this Scheme and paragraphs 20, 21, 26, 27, 49 and 58 of Schedule 8 to this Scheme, having regard to any uprating of welfare benefits pursuant to the Welfare Benefits Uprating Act 2013 or any order made under it or any legislation amending it, replacing it or re-enacting it, and the provisions of Chapter 5 of this Scheme shall be construed accordingly.

CHAPTER 6

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

Calculation of income on a weekly basis

- 57.** (1) Subject to paragraph 60 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a weekly basis—
- (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
 - (b) by adding to that amount the weekly income calculated—
 - (i) if the applicant is a pensioner, under paragraph 71 (tariff income: pensioners);
 - (ii) if the applicant is a person who is not a pensioner, under paragraph 72 (tariff income: persons who are not pensioners);
 and

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- (a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) ("2012 Act"); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

(c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 58 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

(2) The conditions of this paragraph are that—

- (a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in sub-paragraph (3) otherwise applies in his case; and
- (b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.

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

- (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
- (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

Treatment of child care charges

58. (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^(a); or

(a) S.I. 1987/1967.

(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^(a).

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

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

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

(5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (10). (6) The charges are paid by the applicant for care which is provided—

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

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

- (a) in respect of the child's compulsory education;
- (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with paragraph 7 (circumstances in which a person is treated as responsible or not responsible for another); or
- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

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

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

(a) S.I. 1975/556.

- (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**(b)**; or
 - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010**(c)**; 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**(d)**; or
 - (e) by—

(b) S.I. 1999/3110.
(c) 2010 c.1.
(d) S.I. 2010/2574 (W.214).

- (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010**(a)**; 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**(b)**; 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 2011**(c)**, the Fostering Services (Wales) Regulations 2003**(d)** or the Looked After Children (Scotland) Regulations 2009**(e)** in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
- (l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010**(f)** 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.

(a) 2001 asp 8.
(b) 2006 c.21.
(c) S.I. 2011/581.
(d) S.I. 2003/237.
(e) S.I. 2009/210.
(f) S.I. 2010/781; amended by S.I. 2012/1513.

- (11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) the applicant is a pensioner and the other member of the couple is aged not less than 80;
 - (b) the applicant is a pensioner and the other member of the couple is aged less than 80, and—
 - (i) the additional condition specified in paragraph 10 of Schedule 3 (additional condition for the disability premium) to this scheme is treated as applying in his case; and
 - (ii) he satisfies that conditions or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
 - (c) the applicant is not a pensioner, the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work;
 - (d) the applicant is not a pensioner, the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
 - (e) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008 or the Employment and Support Allowance Regulations 2013 (a);
 - (f) 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;
 - (g) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 or the Employment and Support Allowance Regulations 2013 (a); 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

^(a) S.I. 2013/379, amended by S.I. 2013/591, 2013/1508, 2014/107, 2014/147, 2014/516, 2014/597, 2014/884, 2014/1097, 2014/2309

treated as one continuous period;

~~(i)-(h)~~ there is payable in respect of him one or more of the following pensions or allowances—

- (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
 - (ii) attendance allowance under section 64 of the SSCBA;
 - (iii) severe disablement allowance under section 68 of the SSCBA;
 - (iv) disability living allowance under section 71 of the SSCBA;
 - (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) or (vii) above;
 - (ix) main phase employment and support allowance;
- (i) a pension or allowance or payment to which sub-paragraph (v), (vii) or (viii) of paragraph (h) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
- (j) an attendance allowance under section 64 of the SSCBA or disability living allowance would be payable to that person but for—
- (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
- (k) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
- (l) 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;
- (m) paragraph (h), (i), (j) or (k) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or

- (n) 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(a) or under section 46 of the National Health Service (Scotland) Act 1978(b) 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(c).

(12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(f) 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 is, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter to apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

(13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(g) applies to the 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 to apply to him for so long as he has, or is treated as having, limited capability for work.

(14) For the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person—

- (a) to whom an attendance allowance or the care component of disability allowance is payable or would be payable but for—
 - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
- (b) to whom the daily living component of personal independence payment is payable or ~~has ceased to be payable by virtue of~~ ~~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

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- (a) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.
 - (b) 1978 c.29.
 - (c) S.I. 1972/1265 (N.I. 14)

(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 he is engaged in remunerative work for the period specified in sub-paragraph (15) ("the relevant period") provided that—

- (a) in the week before the period of maternity leave, paternity leave or adoption leave began he 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(a), 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, 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(b); and
- (b) "child care element" of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

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

- (a) who has, or
- (b) who (jointly with his partner) has, an award of universal credit.

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- (a) 1992 c.4; section 164 was amended by paragraph 12 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 20 of, and paragraph 6 of Schedule 7 and paragraph 1 of Schedule 8 to, the Employment Act 2002 (c.22).
 - (b) S.I. 1987/1967; Schedule 1B was inserted by S.I. 1996/206.

Calculation of average weekly income from tax credits

59. (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.

Disregard of changes in tax, contributions etc.

60. 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~~national insurance contributions payable under the SSCBA or in the lower earnings limit or upper earnings limit for Class 1 contributions under that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions);
 - (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the SSCBA;
 - (e) in the maximum rate of child tax credit or working tax credit,

for a period not exceeding 30 reduction weeks beginning with the reduction week immediately following the date from which the change is effective.

Calculation of net profit of self-employed earners

61. (1) For the purposes of paragraphs 48 (average weekly earnings of self-employed earners: persons who are not pensioners) and 57 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account must be—
- (a) in the case of a self-employed earner who is engaged in employment

- on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner who is a pensioner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—
 - (i) an amount in respect of income tax and of ~~social security contributions~~national insurance contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions of self-employed earners); and
 - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;
- (c) in the case of a self-employed earner who is not a pensioner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975(a), 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 62 (deduction of tax and contributions for self-employed earners); and
 - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(2) There must be disregarded from the net profit of an applicant who is not a pensioner, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

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

- (a) subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of—
 - (i) income tax; and
 - (ii) ~~social security~~national insurance contributions payable under the SSCBA, calculated in accordance with paragraph 62 (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.

(a) S.I. 1975/529.

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

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

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

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

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

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

(8) For the avoidance of doubt—

- (a) a deduction must not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction must be made 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-national insurance~~ contributions payable under the SSCBA, calculated in accordance with paragraph 62 (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.

Calculation of deduction of tax and contributions of self-employed earners

62. (1) The amount to be deducted in respect of income tax under paragraph 61(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(a) (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~~national insurance contributions under paragraph 60(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.

(4) In this paragraph "chargeable income" means—

- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 61;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) ("2012 Act"); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

CHAPTER 7

Capital

Calculation of capital

63. (1) The capital of an applicant(**a**) to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 64 (income treated as capital: persons who are not pensioners).

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

- (a) Schedule 9, in relation to pensioners;
- (b) Schedule 10, in relation to persons who are not pensioners.

(3) In the case of an applicant who is a pensioner, his capital is to be treated as including any payment made to him by way of arrears of—

- (a) child tax credit;
- (b) working tax credit;
- (c) state pension credit,

if the payment was made in respect of a period for the whole or part of which a reduction under this scheme was allowed before those arrears were paid.

(4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

Income treated as capital: persons who are not pensioners

64. (1) This paragraph applies in relation to persons who are not pensioners.

(2) Any bounty derived from employment to which paragraph 9 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) applies and paid at intervals of at least one year is to be treated as capital.

(3) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E is to be treated as capital.

(4) Any holiday pay which is not earnings under paragraph 41(1)(d) or 51(1)(d) (earnings of employed earners) is to be treated as capital.

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

(5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10 (capital disregards: persons who are not pensioners), any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.

(6) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.

(7) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, is to be treated as capital.

(8) There is to be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.

(9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

(10) Any arrears of working tax credit or child tax credit must be treated as capital.

Calculation of capital in the United Kingdom

- 65.** Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—
- (a) where there would be expenses attributable to the sale, 10 per cent; and
 - (b) the amount of any encumbrance secured on it.

Calculation of capital outside the United Kingdom

- 66.** Capital which an applicant possesses in a country outside the United Kingdom must be calculated—
- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
 - (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any encumbrances secured on it.

Notional capital

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

capital is reduced in accordance with paragraph 68 (diminishing notional capital rule).

(2) A person who is a pensioner who disposes of capital for the purpose of—

- (a) reducing or paying a debt owed by the applicant; or
- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case, is to be regarded as not depriving himself of it.

(3) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.

(4) Except in the case of—

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 9; or
- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a); or
- (f) any sum to which paragraph 51(a) of Schedule 10 refers; or
- (g) child tax credit; or
- (h) working tax credit,

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

(5) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), made—

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or

- water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (6) Sub-paragraph (5) does not apply in respect of a payment of capital made—
- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
- (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
- (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
- (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
- (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
- (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
- (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- (7) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company must, notwithstanding paragraph 63 (calculation of capital) be disregarded; and
- (b) he must, subject to sub-paragraph (8), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(8) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (7) is to be disregarded.

(9) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Diminishing notional capital rule: pensioners

68.—(1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
- (c) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

(2) This sub-paragraph applies to a reduction week where the applicant satisfies the conditions that—

- (a) he is in receipt of a reduction under this scheme; and
- (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) must be equal to the aggregate of—

- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
- (b) where the applicant has also claimed state pension credit, the

amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);

- (c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);
- (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
- (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is a pensioner and would have been entitled to a reduction in council tax under this scheme in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—

- (a) the amount of the reduction in council tax to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
- (b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
- (c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount

of housing benefit to which he would have been entitled;

- (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
- (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

- (a) dividing the relevant amount by the number equal to the number of days in that part-week, and
- (b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under that sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and
- (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

- (a) a further application is made 26 or more weeks after—
 - (i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under paragraph 67(1);
 - (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (11), the date on which he last made an application which resulted in the weekly amount being re-determined, or
 - (iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and
- (b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (7) must not

have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

- (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction in council tax under this scheme is allowed;
- (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
- (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
 - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker’s allowance is payable; and
 - (ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—

- (a) was first taken into account for the purpose of determining his entitlement to a reduction;
- or
- (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction;

and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

Diminishing notional capital rule: persons who are not pensioners

69. (1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or

- (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
- (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
- (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

(2) This sub-paragraph applies to a reduction week (or, in the case of persons who are not pensioners, part-week) where the applicant satisfies the conditions that—

- (a) he is in receipt of a reduction in council tax under this scheme; and
- (b) but for paragraph 67(1), he would have received a greater reduction in council tax under this scheme in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is equal to the aggregate of—

- (a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;
- (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);
- (c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital);
- (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
- (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

(4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is not a pensioner and would

have been entitled to a reduction in council tax in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing must be equal to the aggregate of—

- (a) the amount of council tax benefit to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
- (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;
- (c) if the applicant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
- (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
- (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.

(6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—

- (a) dividing the relevant amount by the number equal to the number of days in that part-week, and
- (b) multiplying the result of that calculation by 7.

(7) The amount determined under sub-paragraph (5) is to be re-determined under the appropriate sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—

- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words

“relevant week” there were substituted the words “relevant subsequent week”; and

- (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further application is made 26 or more weeks after—

- (i) the date on which the applicant made an application for a reduction under this scheme in respect of which he was first treated as possessing the capital in question under paragraph 67(1);
- (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (7), the date on which he last made an application under this scheme which resulted in the weekly amount being re-determined, or
- (iii) the date on which he last ceased to be entitled to a reduction under this scheme, whichever last occurred; and

(b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (6) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

- (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction under this scheme is allowed;
- (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
- (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
 - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker’s allowance is payable; and
 - (ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—

(a) was first taken into account for the purpose of determining his

entitlement to a reduction;

or

- (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction,

and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such reduction week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

Capital jointly held

70. Except where an applicant possesses capital which is disregarded under paragraph 67(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 Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

Calculation of tariff income from capital: pensioners

71. The capital of an applicant who is a pensioner, calculated in accordance with this Part(a), is to be treated as if it were a weekly income(b) of—
- (a) £1 for each £500 in excess of £10,000 but not exceeding £16,000; and
- (b) £1 for any excess which is not a complete £500.

Calculation of tariff income from capital: persons who are not pensioners

72. The capital of an applicant who is not a pensioner, calculated in accordance with this Part(c), is to be treated as if it were a weekly income(d) of—
- (a) £1 for each £250 in excess of £6,000 but not exceeding £16,000; (b) £1 for any excess which is not a complete £250.

-
- (a) See Chapters 1 and 7 of Part 10 in particular, and the capital to be disregarded in accordance with Schedule 9.
- (b) Income from capital is taken into account in calculating the income of an applicant who is a pensioner; see paragraph 39(1)(i).
- (c) See Chapters 1 and 7 of Part 10 in particular, and the capital to be disregarded in accordance with Schedule 10.
- (d) Income from capital is taken into account in calculating the income of an applicant who is not a pensioner; see paragraph 57(1)(b)(ii).

PART 11

Students

CHAPTER 1

General

Interpretation

73. (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**(a)** 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**(b)**;
- (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**(c)**; 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

(a) 1992 c.13.

(b) 1980 c.44.

(c) 2009 c.22.

- (b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following persons to contribute towards the holder's expenses—
- (i) the holder of the allowance or bursary;
 - (ii) the holder's parents;
 - (iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or
 - (iv) the holder's spouse or civil partner;

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

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

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

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

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
 - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or
 - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or

- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
- (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
 - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

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

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 16 of Schedule 8 or paragraph 55 of Schedule 10 (allowances and payments for courses of study) applies;

“grant income” means—

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

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

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
 - (i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does

- not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
- (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

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

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

"sandwich course" has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

"standard maintenance grant" means—

- (a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003(a) ("the 2003 Regulations") for such a student;
- (b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- (c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as "standard maintenance allowance" for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- (d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

"student" means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

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

(a)S.I. 2003/1994; relevant amending instrument is S.I. 2008/1477.

“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(a), section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and includes, in Scotland, a young student’s bursary paid under regulation 4(1)(c) of the Students’ Allowances (Scotland) Regulations 2007.

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

- (a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
 - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
 - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

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

- (a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a 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.

(a) 1998 c.30.

(4) In sub-paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

Treatment of students

74. This scheme has effect in relation to students who are not pensioners subject to the following provisions of this Part.

Students who are excluded from entitlement to a reduction under this scheme

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

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

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

- (a) who is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;

(b) See paragraph 21 as to persons treated as not being in Great Britain.

- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is—
 - (i) aged under 21 and whose course of study is not a course of higher education,
 - (ii) aged 21 and attained that age during a course of study which is not a course of higher education, or
 - (iii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);
- (j) in respect of whom—
 - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
 - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
 - (iii) a payment has been made under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
 - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
 - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

(3) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

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

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

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

(7) Sub-paragraph (1)(b) does not apply to a full-time student for the period specified in sub-paragraph (8) if—

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
 - (i) engaged in caring for another person; or
 - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).

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

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

whichever first occurs

CHAPTER 2

Income

Calculation of grant income

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

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

- (a) intended to meet tuition fees or examination fees;
- (b) in respect of the student's disability;

(a) 1988 c.40

- (c) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (d) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
- (e) intended to meet the cost of books and equipment;
- (f) intended to meet travel expenses incurred as a result of his attendance on the course;
- (g) intended for the child care costs of a child dependant;
- (h) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.

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

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.

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

(5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—

- (a) subject to sub-paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
- (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

(a) 1998 c.30.

(6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.

(7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither sub-paragraph (6) nor paragraph 80(2) (other amounts to be disregarded) applies, must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

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

Calculation of covenant income where a contribution is assessed

77. (1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant must be determined—

- (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding £5 from the resulting amount.

(3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 76(2)(g) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

Covenant income where no grant income or no contribution is assessed

78. (1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—

- (a) any sums intended for any expenditure specified in paragraph

- 76(2)(a) to (e) necessary as a result of his attendance on the course must be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;
 - (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 76(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
 - (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with paragraphs (a) to (d) of sub-paragraph (1), except that—

- (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 76(2)(a) to (e); and
- (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 76(2)(f) and (g) and (3).

Relationship with amounts to be disregarded under Schedule 8

- 79.** No part of a student's covenant income or grant income is to be disregarded under paragraph 19 of Schedule 8 (disregard of certain charitable and voluntary, etc., payments).

Other amounts to be disregarded

- 80.** (1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 81 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 76(2) (calculation of grant income), necessary as a result of his attendance on the course must be disregarded.

(2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 76(2) or (3), 77(3), 78(1)(a) or (c) or 81(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

Treatment of student loans

- 81.** (1) A student loan is to be treated as income.

(2) In calculating the weekly amount of the loan to be taken into account as income—

- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
- (i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
 - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period—
- (i) beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year, and
 - (ii) ending with the reduction week, the last day of which coincides with or immediately precedes, the last day of that academic year,

but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of the authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" has the same meaning as for the purposes of the Education (Student Support) Regulations 2005;

- (c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—
- (i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year;
 - (ii) where the final academic year starts on 1st September, the reduction week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term,

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

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

- (i) the first day of the first reduction week in September; or
- (ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term,

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

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

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

- (a) a student loan has been made to him in respect of that year; or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

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

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—
 - (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
 - (ii) any contribution whether or not it has been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
 - (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
 - (ii) no deduction in that loan was made by virtue of the application of a means test.

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

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

whether or not any such costs are incurred.

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

Treatment of payments from access funds

82. (1) This paragraph applies to payments from access funds that are not payments to which paragraph 85(2) or (3) (income treated as capital) applies.

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

(3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 8 (disregards in the calculation of income other than earnings: persons who are not pensioners)—

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

must be disregarded as income to the extent of £20 per week.

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

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

that payment must be disregarded as income.

Disregard of contribution

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

Further disregard of student's income

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

Income treated as capital

85. (1) Any amount by way of a refund of tax deducted from a student's

covenant income must be treated as capital.

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

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

Disregard of changes occurring during summer vacation

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

PART 12

Extended reductions

CHAPTER 1

Extended reductions: pensioners

Extended reductions: pensioners

87. Paragraphs 88 to 93 apply in relation to applicants who are pensioners.

Extended reductions (qualifying contributory benefits): pensioners

88. (1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes A to C is entitled to an extended reduction (qualifying contributory benefits) where—
- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
 - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes A to C where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

Duration of extended reduction period (qualifying contributory benefits): pensioners

89. (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant who is receiving the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits): pensioners

90. (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) the applicant is entitled to is the greater of—

- (a) the amount of council tax reduction to which the applicant was entitled by virtue of falling within any of classes A to C in the last

- reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of reduction under this scheme to which the applicant would be entitled under by virtue of falling within any of classes A to C for any reduction week during the extended reduction period, if paragraph 88 (extended reductions (qualifying contributory benefits): pensioners) did not apply to the applicant; or
 - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes A to C, if paragraph 88 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, the authority must not award a reduction in pursuance of that application during the extended reduction period.

Extended reductions (qualifying contributory benefits)—movers: pensioners

91. (1) This paragraph applies—

- (a) to a mover^(a); and
- (b) from the Monday following the day of the move.

(2) The amount of the extended reduction (qualifying contributory benefits) awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—

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

(a) See also paragraph 103 in relation to persons moving into the area of the authority from another authority's area.

Relationship between extended reduction (qualifying contributory benefits) and entitlement to a reduction by virtue of classes A to C

92. (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 88(1)(b), that reduction does not cease to have effect until the end of the extended reduction period.

(2) Part 13 (when entitlement begins and change of circumstances) does not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 90(1)(a) or paragraph 91(2) (amount of extended reduction — movers: pensioners).

Continuing reductions where state pension credit claimed: pensioners

93. (1) This paragraph applies where—

- (a) the applicant is entitled to a reduction under this scheme;
- (b) sub-paragraph (2) is satisfied; and
- (c) either—
 - (i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or
 - (ii) the applicant's partner has actually claimed state pension credit.

(2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—

- (a) the applicant's award of—
 - (i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or
 - (ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit or the age of 65; and
- (b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to a reduction under this scheme for the period of 4 weeks beginning on the day following the day the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under this scheme.

(4) Where a reduction under this scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3) above, and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under this scheme must continue to be awarded until the end of the reduction week in which the last day of that period falls.

(5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—

- (a) the whole of the income and capital of the applicant is to be disregarded;
- (b) the maximum council tax reduction amount of the applicant is to be that which was applicable in his case immediately before that period commenced.

(6) The maximum reduction is to be calculated in accordance with paragraph 29(1) if, since the date it was last calculated—

- (a) the applicant's council tax liability has increased; or
- (b) a change in the deduction under paragraph 30 falls to be made.

CHAPTER 2

Extended reductions: persons who are not pensioners

Extended reductions: persons who are not pensioners

94. Paragraphs 95 to 104 apply in relation to applicants who are not pensioners.

Extended reductions: persons who are not pensioners

95. (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to H is entitled to an extended reduction where—

- (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying

income-related benefit ceased.

(2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

(3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they must be treated as being entitled to and in receipt of jobseeker's allowance.

(4) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to H where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

(5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987^(a) (remunerative work: housing costs) applied to that applicant.

Duration of extended reduction period: persons who are not pensioners

96. (1) Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

(a) S.I. 1987/1967.

Amount of extended reduction: persons who are not pensioners

97. (1) For any week during the extended reduction period the amount of the extended reduction to which an applicant is entitled is to be the higher of—
- (a) the amount of the reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to H in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
 - (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to H for any reduction week during the extended reduction period, if paragraph 95 (extended reductions: persons who are not pensioners) did not apply to the applicant; or
 - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to H, if paragraph 95 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction under this scheme is to be awarded by the authority during the extended reduction period.

Extended reductions—movers: persons who are not pensioners

98. (1) This paragraph applies—
- (a) to a mover; and
 - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme to which the mover would have been entitled had they, or their partner, not ceased to be entitled to a qualifying income-related benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—
- (a) the second authority; or
 - (b) the mover directly.

Relationship between extended reduction and entitlement to a reduction by virtue of classes D to H

99. (1) Where an applicant's entitlement to a reduction under this scheme would have ended when the applicant ceased to be entitled to a

qualifying income-related benefit in the circumstances listed in paragraph 95(1)(b), that entitlement does not cease until the end of the extended reduction period.

(2) Paragraphs 106 and 107 do not apply to any extended reduction payable in accordance with paragraph 95(1)(a) or 98(2) (amount of extended reduction—movers: persons who are not pensioners).

Extended reductions (qualifying contributory benefits): persons who are not pensioners

100. (1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to H is entitled to an extended reduction (qualifying contributory benefits) where—

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of classes D to H where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners

101. (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant entitled to the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners

102. (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant is to be the greater of—

- (a) the amount of reduction under this scheme to which the applicant was entitled by virtue of falling within any of classes D to H in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of reduction under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to H for any reduction week during the extended reduction period, if paragraph 100 (extended reductions (qualifying contributory benefits): persons who are not pensioners) did not apply to the applicant; or
- (c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to H, if paragraph 100 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for a reduction under this scheme, no amount of reduction may be allowed by the appropriate authority during the extended reduction period.

Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners

103. (1) This paragraph applies—

- (a) to a mover; and
- (b) from the Monday following the day of the move.

(2) The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was awarded to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—

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

Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to H

104. (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 100(1)(b), that reduction does not cease until the end of the extended reduction period.

(2) Paragraphs 106 and 107 (dates on which entitlement begins and change of circumstances take effect) do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 102(1)(a) or 103(2) (amount of extended reduction—movers: persons who are not pensioners).

CHAPTER 3

Extended reductions: movers in the authority's area

Extended reductions: applicant moving into the authority's area

105. Where—

- (a) an application is made to the authority ("the current authority") for a reduction under this scheme, and
- (b) the applicant, or the partner of the applicant, is in receipt of an extended reduction from—
 - (i) another billing authority in England; or
 - (ii) a billing authority in Wales,

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

PART 13

When entitlement begins and change of circumstances

Date on which entitlement begins

106. (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 reduction week following the date on which that application is made or is treated as made.

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

Date on which change of circumstances is to take effect

107. (1) Except in cases where paragraph 60 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 108 (change of circumstance where state pension credit in payment), a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.

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

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

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

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

(a) Section 11A was inserted by section 75(1) of the Local Government Act 2003 (c.26).

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

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

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

(9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

(10) Sub-paragraph (11) applies if—

- (a) the applicant or his partner has attained the age of 65; and
- (b) either—

- (i) a non-dependant took up residence in the applicant's dwelling; or
- (ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 30 increased.

(11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

(12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—

- (a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—
 - (i) the date on which the applicant's entitlement to a reduction under this scheme first began; or
 - (ii) the date which was the last effective date in respect of such a change,

whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;

- (b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.

(13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is to be the first day of the next reduction week to commence after the date determined under that sub-paragraph.

Change of circumstances where state pension credit in payment

108. (1) Sub-paragraphs (2) and (3) apply where—

- (a) the applicant is in receipt of state pension credit;
- (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
- (c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of a reduction he receives under this scheme.

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—

- (a) an increase in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the increased rate; or
- (b) a decrease in the reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—
 - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
 - (ii) state pension credit is increased,

whichever is the later.

(3) Where the change of circumstance (“the relevant change”) is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under this scheme reduces—

- (a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect from the first day of the reduction week from which state pension credit was reduced; or
- (b) in any other case the relevant change takes effect from the first day of the reduction week next following the date on which—
 - (i) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or

(ii) state pension credit is reduced, whichever is the later.

(4) Where the change of circumstance is that state pension credit is reduced and in consequence of the change, the amount of a reduction he receives under this scheme is increased, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the reduced rate.

(5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under this scheme, the change takes effect from the first day of the reduction week next following the date on which—

- (a) the authority receives notification from the Secretary of State of the award of state pension credit; or
- (b) entitlement to state pension credit begins, whichever is the later.

(6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—

- (a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and
- (b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of reduction the applicant receives under this scheme, the change of circumstances referred to in sub-paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

(7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of a reduction the applicant receives under this scheme, the change takes effect from the first day of the reduction week next following the date in respect of which the guarantee credit is first payable.

(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 93 (continuing reductions where state pension credit claimed), that change takes effect on the first day of the first reduction week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by—

- (a) the authority or a person—
 - (i) authorised to carry out any function of the authority relating to

- this scheme; or
- (ii) providing services relating to this scheme directly or indirectly to the authority; or
- (b) an officer of—
 - (i) the Department for Work and Pensions; or
 - (ii) the Commissioners of Inland Revenue, acting as such,

but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant’s or, as the case may be, the applicant’s partner’s income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant’s income and capital using the relevant calculation or estimate, in accordance with paragraph 36(1).

PART 14

Applications (including duties to notify authority of change of circumstances)

Making an application

109. (1) In the case of—

- (a) a couple or (subject to paragraph (b)) members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines; or
- (b) in the case of members of a polygamous marriage to whom paragraph 37 (income and capital: award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

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

- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
- (b) 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^(a) who has power to apply or, as the case may be, receive benefit on his behalf; or
- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971^(b), the Enduring Powers of Attorney Act 1985^(c) or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

- (3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under this scheme and to receive and deal on his behalf with any sums payable to him.

(a) 2000 asp 4.
(b) 1971 c.27.
(c) 1985 c.29.

- (4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- (5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—
- (a) it may at any time revoke the appointment;
 - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
 - (c) any such appointment must terminate when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by this scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.
- (7) The authority must—
- (a) inform any person making an application of the duty imposed by paragraph 115(1)(a);
 - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
 - (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

Date on which an application is made

- 110.** (1) Subject to sub-paragraph (7), the date on which an application is made is—
- (a) in a case where—
 - (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and
 - (ii) the application is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office,

the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;

- (b) in a case where—
- (i) an applicant or his partner is a person in receipt of a guarantee credit,
 - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
 - (iii) the application to the authority is received at the designated office within one month of the date of the change,

the date on which the change takes place;

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

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

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

the date on which the change takes place;

- (e) in a case where—
- (i) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under this scheme, and
 - (ii) where the applicant makes an application for a reduction under

this scheme within one month of the date of the death or the separation,

the date of the death or separation;

- (f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (g) in any other case, the date on which the application is received at the designated office.

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

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
- (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days), have been entitled to that allowance.

(3) Where the defect referred to in paragraph 7 of Schedule 1 to this scheme (application by telephone)—

- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority 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 on the application.

(4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.

(5) The conditions are that—

- (a) where paragraph 4(a) of Schedule 1 (incomplete form) applies, the authority receives at 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 4(b) of Schedule 1 (application not on approved form or further information requested by authority) applies—
 - (i) the approved form sent to the applicant is received at the 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 4 of that Schedule within one month of the request,or, in either case, within such longer period as the authority may consider reasonable; or
- (c) where the authority has requested further information, the authority receives at its 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 is to treat the application as having been made on the day on which the liability for the tax arises.

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

- (a) in the case of an application made by—
 - (i) a pensioner, or
 - (ii) 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

- (c) 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 for income support, a jobseeker’s allowance or an employment and support allowance.

Back-dating of applications: pensioners

111. (1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.

(2) In any case where paragraph 110(1)(a) applies, sub-paragraph (1) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

Back-dating of applications: persons who are not pensioners

112. (1) Where an applicant who is a person who is not a pensioner—

- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),

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

(2) That date is the latest of—

- (a) the first day from which the applicant had continuous good cause;
- (b) the day 6 months before the date the application was made;
- (c) the day 6 months before the date when the applicant requested that the application should include a past period.

Information and evidence

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

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

(a) the application is accompanied by—

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

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

- (i) evidence of the application for a national insurance number to be so allocated; and
- (ii) the information or evidence enabling it to be so allocated.

(3) Sub-paragraph (2) does not apply—

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

(b) to a person who—

- (i) is a person treated as not being in Great Britain for the purposes of this scheme**(a)**;
- (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 this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by the authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under this scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.

(5) Nothing in this paragraph requires a person to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.

(6) Where a request is made under sub-paragraph (4), the authority must—

- (a) inform the applicant or the person to whom a reduction under this scheme has been awarded of his duty under paragraph 115 (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 115, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.

(a) As to which, see paragraph 21

(7) This sub-paragraph applies to any of the following payments—

- (a) a payment which is—
 - (i) disregarded under paragraph 28 of Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) or paragraph 38 of Schedule 10 (capital disregards: persons who are not pensioners); or
 - (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
- (b) a payment which is disregarded under paragraph 16 of Schedule 9 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);
- (c) a payment which is disregarded under paragraph 30(9)(b) or (c) (payment made under certain trusts etc.) or paragraph 2(b) or (c) of Schedule 4 (payments made under certain trusts etc.) 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^(a);
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

Amendment and withdrawal of application

114. (1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the amendment may also be made by telephone.

(3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.

(4) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

(a) For provisions requiring a pension fund holder to provide information to the billing authority see regulations under section 14A of the Local Government Finance Act 1992.

(5) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the withdrawal may also be made by telephone.

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

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

Duty to notify changes of circumstances

115. (1) Subject to sub-paragraphs (3) and (9), the applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—

- (a) between the making of an application and a decision being made on it, or
- (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under this scheme) including at any time while the applicant is in receipt of such a reduction.

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

- (a) in writing; or
- (b) by telephone—

- (i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 1 unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
 - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
- (c) by any other means which the authority agrees to accept in any particular case,

within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

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

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

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

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

(6) The duty imposed on a person by sub-paragraph (1) includes—

- (a) in the case of a person falling within class C (pensioners: alternative maximum council tax reduction) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs;
- (b) in the case of a person falling within class F (persons who are not pensioners: alternative maximum council tax reduction) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, the date when this occurs.

(7) A person who has been awarded a reduction under this scheme who is also on state pension credit must report—

- (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
- (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.

(8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only the savings credit must also report—

- (a) changes affecting a child living with him which may result in a change in the amount of reduction under this scheme allowed in his case, but not changes in the age of the child;

- (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;
- (c) any change in the income or capital of—
 - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 34 (circumstances in which income of a non-dependant is to be treated as applicant's); or
 - (ii) a person to whom paragraph 36(2)(e) (partner treated as member of the household under paragraph 8) refers,

and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.

(9) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

PART 15

Decisions by authority

Decision by authority

116. The authority must make a decision on an application for a reduction under this scheme within 14 days of paragraphs 110 and 113 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

Notification of decision

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

- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
- (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

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

- (a) informing the person affected of the duty imposed by paragraph 115(1)(b);
- (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.

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

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

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

(a) See paragraphs 8 to 10 of Schedule 1.

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

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

(8) This sub-paragraph applies to—

- (a) the applicant;
- (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—
 - (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^(b) who has power to apply or, as the case may be, receive benefit on the person's behalf; or
 - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
- (c) a person appointed by the authority under paragraph 109(3).

(b) 2000 asp 4.

PART 16

Circumstances in which a payment may be made

Payment where there is joint and several liability

118. (1) Where—

- (a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a financial year;
- (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
- (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers would be inappropriate,

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

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

(3) Where a person other than the person who is entitled to the reduction under this scheme made the application for the reduction and that first person is a person acting pursuant to an appointment under paragraph 109(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 109(5), the amount of the reduction may be paid to that person.

SCHEDULE 1

Procedural matters

PART 1

Procedure for an application for a reduction under this scheme

Procedure by which a person may apply for a reduction under this scheme

1. Paragraphs 2 to 7 apply to an application for a reduction under this scheme.
2. An application may be made—
 - (a) in writing,
 - (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
 - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
3. (1) An application which is made in writing must be made to the designated office on a properly completed form.

(2) The form must be provided free of charge by the authority for the purpose.
4. (1) Where an application made in writing is defective because—
 - (a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
 - (b) it was made in writing but not on the form supplied for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,

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

(2) An application made on a form provided by the authority is properly completed if completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.
5. (1) If an application made by electronic communication is defective the

authority must provide the person making the application with an opportunity to correct the defect.

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

6. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.
7. (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.

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

PART 2

Procedure for making an appeal

Procedure by which a person may make an appeal against certain decisions of the authority

8. A person who is aggrieved by a decision of the authority which affects—
 - (a) the person's entitlement to a reduction under this scheme, or
 - (b) the amount of any reduction under this scheme,may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.
9. The authority must—
 - (a) consider the matter to which the notice relates;
 - (b) notify the aggrieved person in writing—
 - (i) that the ground is not well founded, giving reasons for that belief;
or
 - (ii) that steps have been taken to deal with the grievance, stating the steps taken.
10. Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

PART 3

Procedure for applying for a discretionary reduction

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

11. (1) An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made—
- (a) in writing;
 - (b) by means of an electronic communication in accordance with Part 4 of this Schedule; or
 - (c) where the authority has published a telephone number for the purposes 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 this scheme,

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

PART 4

Electronic communication

Interpretation

12. In this Part—
- “information” includes an application, certificate, notice or other evidence;
- “official computer system” means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.

Conditions for the use of electronic communication

13. (1) The authority may use an electronic communication in connection with applications for, and awards of, reductions under this scheme.
- (2) A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.
- (3) The first condition is that the person is for the time being permitted

to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.

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

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

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

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

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

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

Use of intermediaries

14. The authority may use intermediaries in connection with—

- (a) the delivery of any information by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

Effect of delivering information by means of electronic communication

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

- (a) by this Part; and

(b) by or under an enactment, are satisfied.

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

(3) Information must not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

Proof of identity of sender or recipient of information

16. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

- (a) the sender of any information delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any such information delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

Proof of delivery of information

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

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

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

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

Proof of content of information

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

SCHEDULE 2

Applicable amounts: pensioners

PART 1

Personal allowances

Personal allowance

1. The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 25(1)(a).

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single applicant or lone parent—	(1)
(a) aged under 65;	(a) £ <u>151.20148</u> 35;
(b) aged 65 or over. (2)	(b) £ <u>166.05165</u> 15.
(2) Couple—	(2)
(a) both members aged under 65	(a) £ <u>230.85226</u> 50;
(b) one or both members aged 65 or over.	(b) £ <u>248.28247</u> 20
(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65—	(3)
(a) for the applicant and the other party to the marriage;	(a) £ <u>230.85226</u> 50;
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £ <u>79.6578.15</u>
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over—	.(4)
(a) for the applicant and the other party to the marriage;	(a) £ <u>248.28247</u> 20;
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £ <u>82.2682.0</u> 5

Child or young person amounts

2. (1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 25(1)(b).

<i>Column (1)</i> <u>Child or young person</u>	<i>Column (2)</i> <i>Amount</i>
Person in respect of the period—	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	(a) £ 66.9066.33 ;
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	(b) £ 66.9066.33 .

(2) In column (1) of the table "the first Monday in September" means the Monday which first occurs in the month of September in any year.

PART 2

Family premium

Family premium

3. The amount for the purposes of paragraph 25(1)(c) in respect of a family of which at least one member is a child or young person is £17.45.

PART 3

Premiums

4. The premiums specified in Part 4 are, for the purposes of paragraph 25(1)(d), applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.
5. (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—
- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
 - (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands

Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

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

Severe disability premium

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

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

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

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

dependants aged 18 or over normally residing with him or with whom he is normally residing,

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

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

(4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.

(5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; or
- (b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and

(7) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance

with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so in receipt, notwithstanding section 86 of that Act and regulations made thereunder;

- (c) as being in receipt of an AFIP if he would be so in receipt but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- (d) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (b)—

- (a) no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and
- (b) references to a person being in receipt of a carer's allowance include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001^(a) (loss of benefit).

Enhanced disability premium

7. (1) The condition is that—

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

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

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

(a) 2001 c.11.

Disabled child premium

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

Carer premium

9. (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.
- (2) Where a carer premium has been awarded but—
- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
 - (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,
- this paragraph is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).
- (3) The relevant date for the purposes of sub-paragraph (2) is—
- (a) in a case within sub-paragraph (2)(a), the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
 - (b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.
- (4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

Persons in receipt of concessionary payments

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

Person in receipt of benefit

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

PART 4

Amounts of premium specified in Part 3

12. (1) Severe Disability Premium—

Provision	Amount
(a) where the applicant satisfies the condition in paragraph 6(2)(a)	(a) £ 61.10 <u>61.85</u> ;
(b) where the applicant satisfies the condition in paragraph 6(2)(b)—	(b)
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 6(7);	(i) £ <u>61.85</u> 61.10
(ii) in a case where there is no one in receipt of such an allowance	(ii) £ <u>123.70</u> 122.20 .
(2) Enhanced disability premium	(2) £ <u>24.43</u> 24.08 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.
(3) Disabled Child Premium.	(3) £ <u>60.06</u> 59.50 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £ <u>34.60</u> 34.20 in respect of each person who satisfies the condition specified in paragraph 9.

SCHEDULE 3

Applicable amounts: persons who are not pensioners

PART 1

Personal allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) are the amounts specified for the purposes of paragraphs 26(1)(a) and 27(1)(a) and (b)—

Column (1) Person or couple	Column (2) Amount
(1) A single applicant who—	(1)
(a) is entitled to main phase employment and support allowance;	(a) £73.1072.40;
(b) is aged not less than 25	(b) £73.1072.40;
(c) is aged not less than 18 but less than 25	(c) £57.9057.35.
(2) Lone parent.	(2) £73.1072.40.
(3) Couple.	(3) £114.85113.70.

2. or the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if—
- (a) paragraph 18 is satisfied in relation to the applicant; or
 - (b) the applicant is entitled to a converted employment and support allowance.

3. 1) The amounts specified in column (2) below in respect of each person specified in column (1) are, for the relevant period specified in column (1), the amounts specified for the purposes of paragraphs 26(1)(b) and 27(1)(c)—

Column (1) Child or Young person	Column (2) Amount
Person in respect of the period—	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£ 66.9066.33
(b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£ 66.9066.33

(2) In column (1) of the table in sub-paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.

PART 2

Family premium

4. (1) The amount for the purposes of paragraphs 26(1)(c) and 27(1)(d) in respect of a family of which at least one member is a child or young person is—
- (a) where the applicant is a lone parent to whom sub-paragraph (2) applies, £22.20; (b) in any other case, £17.45.
- (2) The amount in sub-paragraph (1)(a) is applicable to a lone parent—
- (a) who was entitled to council tax benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as in force on that date; or
 - (b) on becoming entitled to council tax benefit where that lone parent—
 - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (3) as at the day before the date of claim for that benefit; and
 - (ii) was entitled to housing benefit as at the date of claim for council tax benefit or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006,
- and in respect of whom, all of the conditions specified in sub-paragraph (3) have continued to apply.
- (3) The conditions specified for the purposes of sub-paragraph (2) are that, in respect of the period commencing on 6th April 1998—
- (a) the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to
 - (i) council tax benefit (in relation to the period prior to 1st April 2013), and
 - (ii) a reduction under this scheme (in relation to the period commencing on 1st April 2013);
 - (b) the applicant has not ceased to be a lone parent;
 - (c) where the applicant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or income-related employment and support allowance or a combination of those benefits;
 - (d) where the applicant was not entitled to income support or to an

income-based jobseeker's allowance on 5th April 1998, he has not become entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance; and

- (e) a premium under paragraph 9 or a component under paragraph 21 or 22 has not become applicable to the applicant.

(4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant is to be treated as entitled to council tax benefit during any period where he was not, or had ceased to be, so entitled and—

- (a) throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations 2006 (lone parent rate of family premium); or
- (b) he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006 and his applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

PART 3

Premiums

- 5. Except as provided in paragraph 6, the premiums specified in Part 4 are, for the purposes of paragraphs 26(1)(d) and 27(1)(e) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 in respect of that premium.
- 6. Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.
- 7. The following premiums, namely—
 - (a) a severe disability premium to which paragraph 11 applies;
 - (b) an enhanced disability premium to which paragraph 12 applies; (c) a disabled child premium to which paragraph 13 applies; and (d) a carer premium to which paragraph 14 applies,may be applicable in addition to any other premium which may apply under this Schedule.
- 8. (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

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

(2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

Disability premium

9. The condition is that—

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 is satisfied; or
- (b) where the applicant has a partner, either—
 - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) or (b) is satisfied by him; or
 - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner

Additional condition for the disability premium

10. (1) Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

(a) S.I. 1979/597.

- (a) the applicant or, as the case may be, his partner—
- (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002^(a), mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or
 - (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to—
 - (aa) council tax benefit (in relation to the period prior to 1st April 2013, and
 - (bb) a reduction under this scheme (in relation to the period commencing on 1st April 2013), and

if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or

- (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or
- (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or
- (v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

(a) S.I. 2002/2005

- (vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006(a) or under section 46 of the National Health Service (Scotland) Act 1978(b) 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(c); or
 - (vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (b) the applicant—
- (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and
 - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
 - (aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;
 - (bb) In any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he is, on again becoming so incapable of work, immediately thereafter to be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he is to continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

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- (a) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.
 - (b) 1978 c.29.
 - (c) S.I. 1972/1265 (N.I. 14).

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods are to be treated as one continuous period.

(6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—

- (a) the reference to a period of 8 weeks in sub-paragraph (3); and
- (b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

Severe disability premium

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

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

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
 - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
 - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
 - (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;
- (b) in the case of an applicant who has a partner—
 - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or

middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and

- (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
- (ii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

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

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on

which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001(a) (loss of benefit provisions).

Enhanced disability premium

12. (1) Subject to sub-paragraph (2), the condition is that—

- (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or
- (b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—
 - (i) the applicant; or
 - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—
 - (i) the applicant; or
 - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit.

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

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (a) an applicant who—
 - (i) is not a member of a couple or a polygamous marriage; and
 - (ii) is a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges) and has been for a period of more than 52 weeks; or

(a) 2001 c.11.

- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of paragraph 58(11)(i) and has been for a period of more than 52 weeks.

Disabled child premium

13. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—
- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
 - (b) is blind or treated as blind within the meaning of paragraph 10; or
 - (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

Carer premium

14. (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.
- (2) Where a carer premium is awarded but—
- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
 - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

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

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for a

reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which—

- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
- (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

Persons in receipt of concessionary payments

15. For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14, any concessionary payment made to compensate that person for the non- payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

Persons in receipt of benefit for another

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

PART 4

Amounts of Premiums Specified in Part 3

17. (1) Disability Premium—

Premium	Amount
(a) where the applicant satisfies the condition in paragraph 9(a);	(a) £32.2531.85;
(b) where the applicant satisfies the condition in paragraph 9(b).	(b) £45.9545.40.
(2) Severe Disability Premium—	(2)
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	(a) £61.8561.10;
(b) where the applicant satisfies the condition in paragraph 11(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5);	(b)(i) £61.8561.10;
(ii) in a case where there is no one in receipt of such an allowance.	(b)(ii) £123.70122.20
(3) Disabled Child Premium	(3) £60.0659.50 in respect of each child or young person in respect of whom the condition specified in

- paragraph 13 is satisfied.
- (4) Carer Premium. (4) £~~34.60~~~~34.20~~ in respect of each person who satisfies the condition specified in paragraph 14.
- (5) Enhanced disability premium (5)
- (a) £~~24.43~~~~24.08~~ in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;
- (b) £~~15.75~~~~15.55~~ in respect of each person who is neither—
- (i) a child or young person; nor
- (ii) a member of a couple or a polygamous marriage,
- in respect of whom the conditions specified in paragraph 12 are satisfied;
- (c) £~~22.60~~~~22.35~~ where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.
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PART 5

The components

18. Subject to paragraph 20 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 if—
- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—
- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
- (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.
19. Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.

20. (1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10.

(2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

The work-related activity component

21. The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work.

The support component

22. The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

PART 6

Amount of Components

23. The amount of the work-related activity component is ~~£29.0528.75.~~ |

24. The amount of the support component is ~~£36.2035.75.~~ |

PART 7

Transitional Addition

25. (1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 28 where the applicant or the applicant's partner ("the relevant person")—

(a) is entitled to a converted employment and support allowance; or
(b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008 and—

- (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008; and
- (ii) is not in receipt of an income-related employment and support allowance,

unless the amount of the transitional addition calculated in accordance

with paragraph 28 would be nil.

(2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of reduction under this scheme;
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

26. (1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the termination of the applicant's award of reduction, under—
 - (i) paragraph 25(2)(b);
 - (ii) sub-paragraph (3)(b); or
 - (iii) paragraph 27(3)(b);
- (b) within 12 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to a reduction under this scheme;
- (c) in the reduction week in which the applicant again becomes entitled to a reduction under this scheme the relevant person is entitled to an employment and support allowance which is not income-related; and
- (d) at the date on which the applicant again becomes entitled to a reduction under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of a reduction under this

- scheme;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

27. (1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
 - (i) paragraph 25(2)(c);
 - (ii) paragraph 26(3)(c); or
 - (iii) sub-paragraph (3)(c);
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations 2008 applies to the relevant person; and
- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 29;
- (b) the termination of the applicant's award of a reduction under this scheme;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-

- based jobseeker's allowance or income support;
(e) 5th April 2020.

PART 8

Amount of Transitional Addition

- 28.** (1) Subject to paragraph 29, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.
- (2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 ("the 2010 Regulations") is made in respect of the relevant person—
- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.
- (3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the 2010 Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the 2010 Regulations—
- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.
- (4) In this paragraph and paragraph 29, "basic amount" means the aggregate of such amounts as may apply in the applicant's case in accordance with paragraph 26(1)(a) to (e) or paragraph 27(1)(a) to (f) (applicable amounts).
- 29.** (1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant's basic amount, the transitional addition that applies immediately before the change of circumstances must be reduced by the amount by which Amount C exceeds Amount D.
- (2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition must be reduced to nil.
- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.

Amount of alternative maximum council tax reduction: pensioners and persons who are not pensioners

1. (1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 31 (alternative maximum council tax reduction: pensioners and persons who are not pensioners) is determined in accordance with the following Table and in this Table—

- (a) “second adult” means any person or persons residing with the applicant to whom paragraph 15(2) (class C) or 18(2) (class F) (as the case may be) applies; and
- (b) “persons to whom paragraph 75(1) of this scheme applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit and a class of person described in sub para (1)(a)

(2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less—

- (a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under this scheme); and
- (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

(1) Second adult	(2) Alternative maximum council tax reduction
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker’s allowance;	(a) 25 per cent of the council tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker’s allowance—	(b)
(i) is less than £ 187.00 185.00 per week;	(i) 15 per cent of the council tax due in respect of that day
(ii) is not less than £ 187.00 185.00 per week but less than £ 243.00 241.00 per week;	(ii) 7.5 per cent of the council tax due in respect of that day;
(c) where the dwelling would be wholly	(c) 100 per cent of the council tax due in

occupied by one or more persons to whom paragraph 75(1) of this scheme applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income based jobseeker's allowance. respect of that day.

2. In determining a second adult's gross income for the purposes of this Schedule, the following must be disregarded from that income—

- (a) any attendance allowance, any disability living allowance, any personal independence payment under Part 4 of the Welfare Reform Act 2012 or an AFIP;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

3. Where there are two or more second adults residing with the applicant for a reduction under this scheme and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the 1992 Act, his income must be disregarded in determining the amount of any alternative maximum council tax reduction, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

SCHEDULE 5

Sums disregarded from applicant's earnings: pensioners

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—
 - (a) £25 in the case of a lone parent;
 - (b) £20 in any other case.
 2. In a case where an applicant is a lone parent, £25 of earnings.
 3. (1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—
 - (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
 - (b) a part-time fire-fighter employed by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005(a) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
 - (c) as an auxiliary coastguard in respect of coast rescue activities;
 - (d) in the manning or launching of a lifeboat if the employment is part-time;
 - (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.
(3) If—
 - (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
 - (b) either of them has, or both of them have, other earnings,so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.
 4. (1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.
-
- (a) 2005 asp 5. Section 1A was inserted by section 101 (1) of the Police and Fire Reform (Scotland) Act 2012 (asp 8).

(3) In this paragraph the applicant or his partner is a carer if paragraph 14 of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.

5. (1) £20 is disregarded if the applicant or, if he has a partner, his partner—
- (a) is in receipt of—
 - (i) long-term incapacity benefit under section 30A of the SSCBA;
 - (ii) severe disablement allowance under section 68 of that Act;
 - (iii) attendance allowance under sections 64 of that Act;
 - (iv) disability living allowance;
 - (v) personal independence payment;
 - (vi) an AFIP;
 - (vii) 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;
 - (viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or
 - (ix) main phase employment and support allowance; or
 - (b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
 - (c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
 - (i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;
 - (ii) in any other case, 364 days; or
 - (d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 1997 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—
 - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 or regulation 7 of the Employment and Support Allowance Regulations 2013 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.

(2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or been in receipt of a reduction under this scheme and—

- (a) £20 was disregarded in respect of earnings taken into account in that award; and
- (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.

(3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—

- (a) entitlement to housing benefit; or
- (b) receipt of a reduction under a council tax reduction scheme; or
- (c) employment,

following the first day in respect of which that benefit is awarded under this scheme.

(4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.

6. (1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 35 (applicant in receipt of guarantee credit: pensioners) does not apply, the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 1 to 5 and 8 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead of this paragraph.

(3) Notwithstanding paragraph 33 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there is also to be disregarded so much of B's earnings as would not when aggregated

with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

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

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance;
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) "Exempt work" means work of the kind described in—

- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008 or regulation 39(1)(a), (b) or (c) of the Employment and Support Allowance Regulations 2013; or (as the case may be); or
- (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

7. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 6 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full amount disregarded thereunder.
8. Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—
 - (a) £5 is to be disregarded if an applicant who has no partner has earnings;
 - (b) £10 is to be disregarded if an applicant who has a partner has earnings.
9. Any earnings, other than earnings referred to in paragraph 40(9)(b), derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under this scheme.
10. (1) In a case where the applicant is a person who satisfies at least one of

the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this Schedule is to be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

- (a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or
- (b) the applicant—
 - (i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
 - (ii) if he is a member of a couple—
 - (aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and
 - (bb) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or
 - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
 - (iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.

(3) The following are the amounts referred to in sub-paragraph (1)—

- (a) any amount disregarded under this Schedule;
- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c) (deductions from income of certain child care charges); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph was a reference to 30 hours.

11. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting to that payment into Sterling.

Amounts to be disregarded in the calculation of income other than earnings: pensioners

1. In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following—
 - (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
 - (b) a war widow's pension or war widower's pension;
 - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011^(a), so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
2. The whole of any amount included in a pension to which paragraph 1 relates in respect of—
 - (a) the applicant's need for constant attendance;
 - (b) the applicant's exceptionally severe disablement.
3. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

(a) S.I. 2011/517.

4. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.
5. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
6. (1) Any payment which is—
 - (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
 - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
 - (ii) whose service in such capacity terminated before 31st March 1973; and
 - (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).
7. £15 of any widowed parent’s allowance to which the applicant is entitled under section 39A of the SSCBA.
8. £15 of any widowed mother’s allowance to which the applicant is entitled under section 37 of the SSCBA.
9. Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—
 - (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent. of such payments; or
 - (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.
10. If the applicant—
 - (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and

- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
 - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
 - (ii) the amount paid is £20 or more per week, £20.

11. Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

12. (1) Any payment, other than a payment to which sub-paragraph (2) applies, made to the applicant by Trustees in exercise of a discretion exercisable by them.

(2) This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—

- (a) obtaining food, ordinary clothing or footwear or household fuel;
- (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
- (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.

(3) In a case to which sub-paragraph (2) applies, £20 or—

- (a) if the payment is less than £20, the whole payment;
- (b) if, in the applicant's case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10; or
- (c) if, in the applicant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—
 - (i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;
 - (ii) he has a disregard under paragraph 1(a) to (g), nil.

(4) For the purposes of this paragraph, "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

- 13. Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner's partner.
- 14. Any payment ordered by a court to be made to the applicant or the applicant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.
- 15. Periodic payments made to the applicant or the applicant's partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant's partner for an injury suffered by him.
- 16. Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 17. Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.
- 18. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—
 - (a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;
 - (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by

section 73 of that Act of 1980, any payment to that student under that section; or

(c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

19. (1) Where the applicant is the parent of a student aged under 25 in advanced education who either—

(a) is not in receipt of any award, grant or student loan in respect of that education; or

(b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount is to be equal to—

(a) the weekly amount of the payments; or

(b) ~~£57.90~~~~57.35~~ less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

20. (1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.

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

21. Except in a case which falls under paragraph 10 of Schedule 5, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

22. Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of

Schedule 9 does not exceed £10,000, any income actually derived from such capital.

- 23.** Except in the case of income from capital specified in Part 2 of Schedule 9, any actual income from capital.
- 24.** Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.

SCHEDULE 6A

Amounts to be disregarded in the calculation of income other than earnings: pensioners where a reduction applies under S13A(1)(c) LGFA 1992

1. Further to the disregarded items within Schedule 6, any payment of any of the following, namely:-
 - (a) a war disablement pension; and
 - (b) a war widow's pension or war widower's pension; as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)
 - (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 subparagraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;
 - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

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

1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

- (i) the employment has been terminated because of retirement; and
- (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to a reduction under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

- (i) any payment of the nature described in—
 - (aa) paragraph 51(1)(e) (retainer), or
 - (bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and
- (ii) any award, sum or payment of the nature described in—
 - (aa) paragraph 51(1)(g) or (i) (compensation etc. relating to employment), or
 - (bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to a reduction under this scheme—

- (i) the employment has not been terminated, but
- (ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph (b)(i)

or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

2. In the case of an applicant who, before the first day of entitlement to a reduction under this scheme—

- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
- (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings paid or due to be paid in respect of that employment except—

- (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);
- (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

3. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 53(3) and (4) (earnings of self-employed earners) apply.

4. (1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 33 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it does not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 3 (applicable amounts: persons who are not pensioners).

(3) This paragraph applies where—

- (a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3; and
- (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5. In a case where the applicant is a lone parent, £25.

6. (1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under

Schedule 3 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

7. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—
 - (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
 - (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.
8. In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.
9. (1) In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant, £20 of earnings derived from one or more employments as—
 - (a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(a) or a scheme to which section 4 of that Act applies;
 - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
 - (c) an auxiliary coastguard in respect of coast rescue activities;
 - (d) a person engaged part-time in the manning or launching of a life boat;
 - (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this

paragraph applies to an applicant it must not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

10. Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

11. In a case to which none of the paragraphs 4 to 10 applies, £5.

12. (1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

(3) Notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it does not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).

(a) 2004 c.21.

(4) Where A's earnings are less than the specified amount, there must also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

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

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance; or
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) "Exempt work" means work of the kind described in—

- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008 or regulation 39(1)(a), (b) or (c) of the Employment and Support Regulations 2013; or (as the case may be)
- (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

- 13. Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 8 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
- 14. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.
- 15. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.
- 16. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.

17. Any earnings of a child or young person.
18. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 must be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

- (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or
- (b) the applicant—

- (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
- (ii) is a member of a couple and—

(aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) his applicable amount includes a family premium under paragraph 4 of Schedule 3; or

- (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

- (iii) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—

(aa) the applicant's applicable amount includes a disability premium under paragraph 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 3 respectively;

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in paragraph (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or

- (c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1)—

- (a) the amount calculated as disregarable from the applicant's

- earnings under paragraphs 4 to 12;
- (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c); and
- (c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

- 19.** In this Schedule “part-time employment” means employment in which the person is engaged on average for less than 16 hours a week.

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

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.
4. Any amount paid by way of tax on income which is to be taken into account under regulation 30 (calculation of income other than earnings).
5. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
 - (a) engaged by a charitable or voluntary organisation, or
 - (b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 56(5) (notional income: persons who are not pensioners).
6. Any payment in respect of expenses arising out of the applicant's participation ~~in~~ as a service user ~~group~~.
7. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.
9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.

10. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999(a) as in force at that date, the whole of his income.
11. Any disability living allowance, personal independence payment or an AFIP.
12. Any concessionary payment made to compensate for the non-payment of—
 - (a) any payment specified in paragraph 11 or 14;
 - (b) income support;
 - (c) an income-based jobseeker's allowance;
 - (d) an income-related employment and support allowance.
13. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
14. Any attendance allowance.
15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
16. (1) Any payment—
 - (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.);
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
 - (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

(a) S.I. 1999/2734.

- (ii) regulations made under section 181 of that Act; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

17. Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.
18. (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990^(a) except a payment—
- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
 - (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
 - (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(a) 1990 c.35.

19. (1) Subject to sub-paragraph (2), any of the following payments—
- (a) a charitable payment;
 - (b) a voluntary payment;
 - (c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
 - (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the applicant; or
 - (ii) from funds derived from a payment made,

in consequence of any personal injury to the applicant; or

- (e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

(2) Sub-paragraph (1) does not apply to a payment which is made or due to be made by—

- (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
- (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

20. Subject to paragraph 40, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of

Germany, or any part of it, or of the Republic of Austria.

- 21.** Subject to paragraph 40, £15 of any—
- (a) widowed mother's allowance paid pursuant to section 37 of the SSCBA;
 - (b) widowed parent's allowance paid pursuant to section 39A of the SSCBA.
- 22.** (1) Any income derived from capital to which the applicant is or is treated under paragraph 70 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Schedule 10.
- (2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 10 but only to the extent of—
- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
 - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of "water charges" in paragraph 2(1) (interpretation) applies to sub-paragraph (2) of this paragraph with the omission of the words "in so far as such charges are in respect of the dwelling which a person occupies as his home".
- 23.** Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—
- (a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;
 - (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
 - (c) the student's student loan,
- an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.
- 24.** (1) Where the applicant is the parent of a student aged under 25 in advanced education who either—
- (a) is not in receipt of any award, grant or student loan in respect of that

- education; or
- (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount must be equal to—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b), whichever is less.

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

26. Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

27. Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

28. (1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to "income in kind" does not

include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

- 29.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 30.** (1) Any payment made to the applicant in respect of a person who is a member of his family—
- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978(a) (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);
 - (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
 - (c) which is a payment made by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
 - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 31.** Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made—
- (a) by a local authority under—
 - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
 - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
 - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
 - (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

(a) 2008 c.28.

- 32.** Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant’s household but is temporarily in his care, by—
- (a) a health authority;
 - (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 - (c) a voluntary organisation;
 - (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
 - (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
 - (f) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.
- 33.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
- 34.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the applicant.
- (2) Sub-paragraph (1) applies only where A—
- (a) was formerly in the applicant’s care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.
- 35.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
 - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974(a) 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) 1974 c.39.

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b); and
 - (b) meet any amount due by way of premiums on—
 - (i) that policy; or
 - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 36.** Any payment of income which by virtue of paragraph 64 (income treated as capital: persons who are not pensioners) is to be treated as capital.
- 37.** Any—
- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
 - (b) occasional assistance.
- 38.** Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).
- 39.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 40.** The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 33(3) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 77(2)(b) and paragraph 78(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 81(2) (treatment of student loans), paragraph 82(3) (treatment of payments from access funds) and paragraphs 20 and 21 must in no case exceed £20 per week.
- 41.** (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation 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 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.

- 42.** Any housing benefit.
- 43.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 44.** Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.
- 45.** Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax).
- 46.** (1) Any payment or repayment made—
- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
 - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).
- (2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).
- 47.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in

connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

48. Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

49. (1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

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

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

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

(2) In sub-paragraph (1)—

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

- (a) the Child Support Act 1991^(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 sub-paragraph (d) of that definition.

51. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944^(b) to assist disabled persons to obtain or retain employment despite their disability.

(a) 1991 c.48.
(b) 1944 c.10.

- 52.** Any guardian's allowance.
- 53.** (1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.
- (2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.
- 54.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.
- 55.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 56.** (1) Any payment which is—
- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
- (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
- (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.
- (2) In this paragraph "the Dispensing Instruments" means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).
- 57.** Any council tax benefit to which the applicant is entitled.
- 58.** Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 7, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

- 59.** Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).
- 60.** (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—
- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
 - (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) applies only in respect of payments which are paid to that person from the special account.

- 61.** (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).
- (2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
- (3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

62. Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker’s allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.

63. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

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

(a) S. I. 2001/1167

65.—(1) Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.

66. Any payment of child benefit.

SCHEDULE 8A

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

1. Further to the disregarded items within Schedule 8, any payment of any of the following, namely:-

- (a) a war disablement pension; and
- (b) a war widow's pension or war widower's pension;

as defined by the Schedule of The Housing Benefit and Council Tax Benefit (War Pensions Disregards) Regulations 2007 (as amended by SI 2010/2449)

- (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 subparagraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

Capital disregards: pensioners**PART 1****Capital to be disregarded**

1. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
2. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
3. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
4. Any premises occupied in whole or in part—
 - (a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
 - (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a civil partnership with his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

7. Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.
8. All personal possessions.
9. The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.
10. The assets of any business owned in whole or in part by the applicant if—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or 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, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

11. The surrender value of any policy of life insurance.
12. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—
 - (a) the applicant makes one or more payments to another person (“the provider”);
 - (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
 - (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.
13. Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—
 - (a) the applicant;
 - (b) the applicant’s partner;
 - (c) the applicant’s deceased spouse or deceased civil partner; or
 - (d) the applicant’s partner’s deceased spouse or deceased civil partner,

by the Japanese during the Second World War, an amount equal to that payment.

14. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is—
- (a) a diagnosed person;
 - (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
 - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.
- (2) Where a trust payment is made to—
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph 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.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is—
- (a) the diagnosed person;
 - (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
 - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.
- (4) Where a payment such as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending two years after that date.
- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
 - (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death 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 or an independent hospital.

- (6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

- 15.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant’s partner, the applicant’s deceased spouse or civil partner or the applicant’s partner’s deceased spouse or civil partner—
- (a) was a slave labourer or a forced labourer;
 - (b) had suffered property loss or had suffered personal injury; or
 - (c) was a parent of a child who had died, during the Second World War.
- 16.** (1) Any payment made under or by—
- (a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or
 - (b) the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of that person’s partner or former partner—
- (a) from whom he is not, or where that person has died was not, estranged or divorced, or
 - (b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person’s death.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.
- (4) Sub-paragraph (3) does not apply if—
- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
 - (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if

either of them has died, had not been dissolved at the time of the death.

(5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,

but only for a period from the date of the payment until the end of two years from that person's death.

(6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, where—

- (a) that person at the date of his death ("the relevant date") had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child who was or had been a member of his household; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,

but only for a period of two years from the relevant date.

(7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

17. (1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.

(2) Where the whole or part of the payment is administered—

- (a) by the High Court or the County Court under Rule 21.11(1) of the

Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;

- (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
- (c) in accordance with the terms of a trust established for the benefit of the applicant or his partner,

the whole of the amount so administered.

- 18. Any amount specified in paragraph 19, 20, 21 or 25 for a period of one year beginning with the date of receipt.
- 19. Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.
- 20. So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of—
 - (a) purchasing premises which the applicant intends to occupy as his home; or
 - (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.
- 21. (1) Subject to paragraph 22 any amount paid—
 - (a) by way of arrears of benefit;
 - (b) by way of compensation for the late payment of benefit;
 - (c) in lieu of the payment of benefit;
 - (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
 - (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000(a) under a scheme known as "Supporting People" or section 91 of the Housing (Scotland) Act 2001.
 - (f) by way of occasional assistance including arrears and payments in lieu of occasional assistance (and in this paragraph "occasional assistance" has the same meaning as in paragraph 16 of Schedule 1)(2) In sub-paragraph (1), "benefit" means—
 - (a) attendance allowance under section 64 of the Act;
 - (b) disability living allowance;
 - (c) personal independence payment;
 - (d) an AFIP;
 - (e) income support;
 - (f) income-based jobseeker's allowance;
 - (g) state pension credit;
 - (h) housing benefit;
 - (i) council tax benefit;

- (j) child tax credit;
- (k) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001
- (n) working tax credit;
- (o) income-related employment and support allowance; ~~or~~
- (p) ~~(p)~~ social fund payments under Part 8 of the SSCBA; or
- (q) universal credit.

22. (1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and which has been received by the applicant in full on or after the day on which he became entitled to a reduction under this scheme.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—

- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996 (b);
- (c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006; (d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
- (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations 2008 (c),
- (f) paragraph 18 of Schedule 10 to the Universal Credit Regulations 2013 (db);

where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) has effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of a reduction under the authority's scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided

that, for such further awards, the applicant—

- (i) is the person who received the relevant sum;
- (ii) is the partner of that person; or
- (iv) was the partner of that person at the date of his death;

(a) —2000 c.22.

(b) S.I. 1996/207; relevant amending instrument on S.I. 2002/2380

(c) S.I. 2008/794 to which there are amendments not relevant to these Regulations

(d) S.I. 2013/376

“official error”—

- (a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(a); and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999; “the relevant date” means the date on which the application for a reduction under this scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and “the relevant sum” means the total amount referred to in sub-paragraph (1).

- 23. Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.
- 24. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.
- 25. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.
- 26. The dwelling occupied as the home; but only one dwelling is to be disregarded under this paragraph.
- 27. (1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax reduction: pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class B and class C.
- 28. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—
 - (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
 - (b) the amount of that lump sum,

but only for so long as that person does not change that election in favour of an increase of pension or benefit.

(a) S.I. 2001/1002.

29. Any payments made by virtue of regulations made under—
- (a) section 57 of the Health and Social Care Act 2001 (direct payments);
 - (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services);
 - (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);
 - (d) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972^(a) (general social welfare); or
 - (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002^(b) (direct payments).
- 29A. A payment made under the Age-Related Payments Regulations 2013 ^(c).

PART 2

Capital disregarded only for the purposes of determining deemed income

30. The value of the right to receive any income under a life interest or from a life rent.
31. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
32. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
33. Where property is held under a trust, other than—
- (a) a charitable trust within the meaning of the Charities Act 1993; or
 - (b) a trust set up with any payment to which paragraph 16 applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

(a) S.I. 1972/12656 (N.I. 14).
(b) 2002 c.6.
(c) S.I. 2013/2980.

Capital disregards: persons who are not pensioners

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment.
4. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.
5. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
6. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
7. Any premises occupied in whole or in part—
 - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
 - (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.

8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
10. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
11. (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the applicant where—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,for a period of 26 weeks from the date on which the application for a reduction under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

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

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
12. (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraphs 11, 13 or 14 of Schedule 8;
- (b) an income-related benefit under Part 7 of the SSCBA;
- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (e) working tax credit and child tax credit;
- (f) an income-related employment and support allowance,
- (g) universal credit

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of a reduction under this scheme, for the remainder of that period if that is a longer period.

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

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—
 - (i) is the person who received the relevant sum; or
 - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

13. Any sum—

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or

- replacement; or
- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

14. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home,

for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.

- 15.** Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to a reduction under this scheme or to increase the amount of that reduction.
- 16.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 17.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.
- 18.** (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.
- (2) But sub-paragraph (1)—
- (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
 - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
 - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;

(d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).

19. The value of the right to receive any income under a life interest or from a life rent.
20. The value of the right to receive any income which is disregarded under paragraph 15 of Schedule 7 or paragraph 29 of Schedule 8.
21. The surrender value of any policy of life insurance.
22. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
23. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
24. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—
 - (a) was formerly in the applicant's care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.
25. Any—
 - (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
 - (b) occasional assistance.
26. Any refund of tax which falls to be deducted under section 369 of the

Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

27. Any capital which by virtue of paragraph 55 or 81 (capital treated as income: persons who are not pensioners, treatment of student loans) is to be treated as income.
28. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
29. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
 - (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
 - (a) the person who is suffering from haemophilia or who is a qualifying person;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
(4) Sub-paragraph (3) does not apply if—
 - (a) the partner or former partner and that person are not, or if either of

- them has died were not, estranged or divorced, or
- (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

(5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(8) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

- 30.** (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.
- (2) In this paragraph “dwelling” includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.
- 31.** Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.
- 32.** Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
- 33.** Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
- 34.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 35.** The value of the right to receive an occupational or personal pension.
- 36.** The value of any funds held under a personal pension scheme.
- 37.** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

38. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
39. Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
40. Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
41. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988(a) or section 66 of the Housing (Scotland) Act 1988(b) (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—
- (a) to purchase premises intended for occupation as his home; or
 - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.

42. Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
43. (1) Any payment or repayment made—
- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
 - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

(a) 1988 c.50.

(b) 1988 c.43.

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

44. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.
45. Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).
46. Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.
47. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(a) to assist disabled persons to obtain or retain employment despite their disability.
48. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(b) to homeworkers assisted under the Blind Homeworkers' Scheme.
49. (1) Subject to sub-paragraph (2), where an applicant falls within class F (alternative maximum council reduction: persons who are not pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class E and class F.
50. (1) Any sum of capital to which sub-paragraph (2) applies and—
 - (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
 - (b) which can only be disposed of by order or direction of any such court; or
 - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(a) 1944 c.10.
(b) 1958 c.3

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

51. Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from—

- (a) award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

52. Any payment to the applicant as holder of the Victoria Cross or George Cross.

53. In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

54. (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

55. (1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made

pursuant to—

- (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

- 56.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.
- 57.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.
- 58.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—
- (a) the applicant;
 - (b) the applicant's partner;
 - (c) the applicant's deceased spouse or deceased civil partner; or
 - (d) the applicant's partner's deceased spouse or deceased civil partner, by the Japanese during the Second World War, £10,000.
- 59.** (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is—
- (a) a diagnosed person;
 - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
 - (c) a parent of a diagnosed person, a person acting in place of the

diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or

- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending—

- (i) two years after that date; or

- (ii) on the day before the day on which that person—

- (aa) ceases receiving full-time education; or

- (bb) attains the age of 20,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph applies for the period beginning on the date on which that payment

- is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,

whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family; (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;
 “relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
 “trust payment” means a payment under a relevant trust.

- 60.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner—
- (a) was a slave labourer or a forced labourer;
 - (b) had suffered property loss or had suffered personal injury; or
 - (c) was a parent of a child who had died, during the Second World War.
- 61.** (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.
- (2) For the purposes of sub-paragraph (1) “local authority” includes in England a county council.

- 62.** Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care).
- 63.** Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 64.** Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

