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SOCIAL SECURITY

The Social Security (Claims and Payments)
Regulations 1987

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Note: The material reproduced or annotated below is limited to what is relevant to this volume, comprising Regs. 34A, 35, 35A, Sch. 9, and Sch. 9A. The complete Statutory Instrument, as at present in force, is covered in volume 1.

PART IV

THIRD PARTIES

►Deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders

34A.—(1) ►In relation to cases to which section 51A(1) or, subject to paragraph (1A), section 15A(1A) of the Social Security Administration Act 1992(a)◄ (payment out of benefit of sums in respect of mortgage interest etc.) applies and in the circumstances specified in Schedule 9A, such part of any relevant benefits to which a relevant beneficiary is entitled as maybe specified in that Schedule shall be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that mortgage interest(b).

►(1A) Paragraph (1) shall only apply in relation to a relevant beneficiary who is entitled to state pension credit where he is entitled to a guarantee credit.◄

(2) The provisions of Schedule 9A shall have effect in relation to mortgage interest payments.◄

Reg. 34A inserted by reg. 3 of S.I. 1992/1026 as from 25.5.92 (or later— see reg 1(4) *ibid*).

Words in reg. 34A(1) substituted by reg. 12 of S.I. 2002/3019 as from 7.4.03.

Para. (1A) inserted in reg. 34A & reg. 34B inserted by reg. 5(2)(b) & (3) of S.I. 2002/3197 as from 7.4.03.

►Deductions of mortgage interest which may be made from benefits and paid to qualifying lenders in other cases

34B.—(1) In relation to cases to which section 15A(1A) of the Social Security Administration Act 1992(c) applies (other than those referred to in regulation 34A(1A))—

- (a) in the circumstances specified in paragraph 2A(1) of Schedule 9A: and
- (b) in either of the further circumstances specified in paragraph 2A(2) of that Schedule,

such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule may be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that interest(d).

(2) The provisions of Schedule 9A(e) shall have effect in relation to mortgage interest payments made under this regulation.◄

(a) See s. 15A for the definition of “relevant beneficiary”, “qualifying lender” and “mortgage interest”.

(b) See section 51C of the Social Security Act 1986 (re-enacted w.e.f. 1.7.92 in s. 15A of S.S. Admin. Act 1992 (c. 5)) for definitions of “relevant benefits”, “relevant beneficiary”, “qualifying lender” and “mortgage interest”

(c) Section 15A(1A) is inserted by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 9(2).

(d) See s. 15A for the defn. of “relevant beneficiary” “qualifying lender” and “mortgage interest”.

(e) Sch. 9A is inserted by S.I. 1992/1026.

Reg. 35-35A

Reg. 35 substituted by reg. 7 of Sch. S.I.1988/522 as from 11.4.88.

Heading, and words in reg. 35(1), substituted by reg. 4 of S.I. 1992/1026 as from 25.5.92 (or later—see reg. 1(4) *ibid.*).

Words inserted in reg. 35(1) by reg. 2(a) of S.I. 2001/18 as from 31.1.01.

Words inserted into reg. 35(2) by reg. 3(7) of S.I. 1988/1725 as from 7.11.88.

Words substituted in reg. 35(2) by reg. 9 of S.I. 2002/2441 as from 8.4.03.

Reg. 35A inserted by reg. 6 of S.I. 1989/1686 as from 9.10.89.

Words inserted in defn. of “specified benefit” by reg. 13 of S.I. 2002/3019 as from 6.10.03.

►►Deductions which may be made from benefit and paid to third parties

35.—(1) Except as provided for in regulation 34A and Schedule 9A, deductions◀ may be made from benefit and direct payments may be made to third parties on behalf of a beneficiary in accordance with the provisions of Schedule 9 ►and Schedule 9B◀.

(2) Where a social fund payment for maternity or funeral expenses ►or expenses for heating which appear to Secretary of State to have been or to be likely to be incurred in cold weather◀ is made, wholly or in part, in respect of a debt which is, or will be, due to a third person, the ►payment may be, and in the case of funeral expenses shall be, made to that person and where an instrument of payment is made payable to that person it may be sent to the beneficiary.◀◀

►Transitional provisions for persons in hostels or certain residential accommodation

35A.—(1) In this regulation-

“benefit week” has the same meaning as it has in Schedule 7, paragraph 4; “specified benefit” has the same meaning as it has in Schedule 9, paragraph 1 ►except that it does not include state pension credit◀; and

“Schedule 3B” means Schedule 3B to the Income Support (General) Regulations 1987(a).

(2) Expressions used in this regulation and in Schedule 3B have, unless the context otherwise requires, the same meanings in this regulation as they have in that Schedule.

(3) Where—

(a) immediately before the coming into force of Schedule 3B a beneficiary was in, or temporarily absent from, a hostel and a payment in respect of his accommodation charges was, or would but for that absence have been, made for the first week to a third party under—

(i) Schedule 9, paragraph 4 (miscellaneous accommodation costs), or

(ii) regulation 34 (payment to another person on the beneficiary’s behalf); and

(b) the beneficiary is entitled to eligible housing benefit for the period mentioned in sub-paragraph (b) of the expression “eligible housing benefit”; and

(c) the beneficiary continues to reside in the same hostel,

the adjudicating authority shall in a case to which paragraph (6) applies determine that an amount of specified benefit shall, subject to paragraphs (8) and (9), be paid to that third party.

(4) Where a beneficiary is in, or is temporarily absent from, accommodation which—

(a) was a hostel before the March benefit week; and

(b) in the second week is residential accommodation within the meaning of regulation 21 of the Income Support (General) Regulations 1987,

paragraph (3) shall apply as if sub-paragraph (b) was omitted and as if the reference to paragraph (6) was a reference to paragraph (7).

(5) An amount of specified benefit shall not be paid to a third party under paragraph (3), as applied by paragraph (4), where the beneficiary—

(a) is in residential accommodation in the benefit week which commences in the period of 7 consecutive days beginning on 9th October 1989, but

(b) is a person to whom a protected sum is not applicable in accordance with paragraph 3(3) of Schedule 3B.

(6) This paragraph applies in a case where—

(a) the amount of the eligible housing benefit referred to in paragraph (3)(b) is less than

(b) the amount of the direct payment or the payment under regulation 34 in respect of the first week or the amount which would have been payable but for the temporary absence of the beneficiary in the first week;

(a) S.I. 1987/1967; to which the relevant amendments are S.I. 1988/663 and 1445, and S.I.1989/534.

and where this paragraph applies the amount of the specified benefit determined in accordance with paragraph (3) shall be the difference between the amounts specified in sub-paragraphs (a) and (b).

(7) This paragraph applies where the applicable amount which was appropriate to the beneficiary by way of personal expenses in the first week is less than the total applicable amount appropriate to the beneficiary in the second week; and where this paragraph applies the amount of the specified benefit determined in accordance with paragraph (3) as applied by paragraph (4) shall be the difference between those two amounts.

(8) Where immediately before the coming into force of Schedule 3B a beneficiary was temporarily absent from a hostel and the charge levied on him during that period of absence was less than the full charge for the accommodation, an amount of specified benefit shall not be paid to the third party in respect of the period for which less than the full charge was levied but shall be paid when the full charge is levied.

(9) Specified benefit shall not be paid to a third party in accordance with this regulation unless the amount of the beneficiary's award of the specified benefit is not less than the total of the amount otherwise authorised to be so paid under this regulation plus 10 pence.

(10) For the purposes of paragraph (3)(c) residence shall be regarded as continuous where the only absences occurred during the permitted period and

for this purpose "permitted period" has the same meaning as it has in regulation 3A of the Income Support (General) Regulations 1987(a).

(11) This regulation shall cease to apply, where a beneficiary's benefit week in the week commencing 2nd April 1990-

- (i) begins on that day, on the day immediately following 8th April 1990;
- (ii) begins on a day other than that day, on the day immediately following the last day in his benefit week.◀

(a) S.I. 1987/1967; regulation 3A was inserted by S.I. 1989/1678 regulation 2.

SCHEDULE 9

DEDUCTIONS FROM BENEFIT AND DIRECT PAYMENT TO THIRD PARTIES

Interpretation

Para. 1 re-designated as para. 1(1) by reg. 2(26)(a) of S.I. 1996/1460 as from 7.10.96.

(a) Defns. of Regulations inserted in para. 1 by reg. 2(2)(a) and (b) of S.I. 1993/495 as from 1.4.93.

Defn. "contribution-based jobseeker's allowance" inserted by reg. 25(2) of S.I. 1996/2344 as from 7.10.96.

Words inserted in defn. of "family" by reg. 14(1)(a)(i) of S.I. 2002/3019 as from 6.10.03.

See note (a) above

Defn. substituted in para. 1 by reg. 12(a) of S.I. 1991/2284 as from 1.11.91.

Defns. "hostel" and "housing authority" inserted into para. 1 by reg. 12(b) and (c) respectively of S.I. 1991/2284 as from 1.11.91.

Words in defn. of "hostel" substituted by reg. 2(2) of S.I. 2002/398 as from 8.4.02.

1.►—(1)◄ In this Schedule-

►"the Community Charges Regulations" means the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990;

"the Community Charges (Scotland) Regulations" means the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989;

►"contribution-based jobseeker's allowance" means any contribution-based jobseeker's allowance which does not fall within the definition of "specified benefit";◄

"the Council Tax Regulations" means the Council Tax (Deductions from Income Support) Regulations 1993(a);◄

"family" in the case of a claimant who is not a member of a family means that claimant ►and for the purposes of state pension credit "a family" comprises of the claimant, his partner, any additional partner to whom section 12(1)(c) of the 2002 Act applies and any person who has not attained the age of 19, is treated as a child for the purposes of section 142 of the Contributions and Benefits Act and lives with the claimant or the claimant's partner◄;

►"the Fines Regulations" means the Fines (Deductions from Income Support) Regulations 1992.◄

►"5 per cent. of the personal allowance for a single claimant aged not less than 25" means where the percentage is not a multiple of 5 pence the sum obtained by rounding that 5 per cent. to the next higher such multiple;◄

►"hostel" means a building other than a residential care home or nursing home within the meaning of regulation ►2(1)◄ of the Income Support Regulations(b) or residential accommodation within the meaning of regulation 2 l(3) of those Regulations(c)–

(a) in which there is provided for persons generally, or for a class of persons, accommodation, otherwise than in separate and self-contained premises, and either board or facilities of a kind set out in paragraph 4A(1)(d) below adequate to the needs of those persons and–

(b) which is–

(i) managed by or owned by a housing association registered with the Housing Corporation established by the Housing Act 1964(d); or

(ii) managed or owned by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988(e),

or

(iii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or a local authority; or

(iv) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community.

(c) In sub-paragraph (iv) above "voluntary organisation" shall mean a body the activities of which are carried out otherwise than for profit, but shall not include any public or local authority;

(a) S.I. 1993/494.

(b) Relevant amending instruments are S.I. 1988/663, S.I. 1988/1445 and S.I. 1988/2022.

(c) Relevant amending instrument is S.I. 1989/534.

(d) 1964 c. 56.

(e) 1988 c. 43.

“housing authority” means a local authority, a new town corporation, Scottish Homes or the Development Board for Rural Wales;◀

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(a);

▶“housing costs” means any housing costs met under

(a) Schedule 3 to the Income Support Regulations but–

(i) excludes costs under paragraph 17(1)(f) of that Schedule (tents and tent sites); and

(ii) includes costs under paragraphs 17(1)(a) (ground rent and feu duty) and 17(1)(c) (rentcharges) of that Schedule but only when they are paid with costs under paragraph 17(1)(b) of that Schedule (service charges); or

(b) Schedule 2 to the Jobseeker’s Allowance Regulations but–

(i) excludes costs under paragraph 16(1)(f) of that Schedule (tents and tent sites); and

(ii) includes costs under paragraphs 16(1)(a) (ground rent and feu duty) and 16(1)(c) (rentcharges) of that Schedule but only when they are paid with costs under paragraph 16(1)(b) of that Schedule (service charges);◀

▶(c) Schedule II to the State Pension Credit Regulations but–

(i) excludes costs under paragraph 13(1)(f) of that Schedule (tents and sites); and

(ii) includes costs under paragraphs 13(1)(a) (ground rent and feu duty) and 13(1)(c) (rent charges) of that Schedule but only when they are paid with costs under paragraph 13(1)(b) of that Schedule (service charges);◀

▶“income support” means income support under Part II of the Social Security Act 1986 and includes transitional addition, personal expenses addition and special transitional addition as defined in the Income Support (Transitional) Regulations 1987(b);◀

“the Income Support Regulations” means the Income Support (General) Regulations 1987(c);

“miscellaneous accommodation costs” has the meaning assigned by paragraph 4(1);

▶“mortgage payment” means the aggregate of any payments which fall to be met under–

(a) Schedule 3 to the Income Support Regulations in accordance with paragraphs 6 to 10 of that Schedule (housing costs to be met in income support) on a loan which qualifies under paragraph 15 or 16 of that Schedule, but less any amount deducted under paragraph 18 of that Schedule (non-dependent deductions); or

(b) Schedule 2 to the Jobseeker’s Allowance Regulations in accordance with paragraphs 6 to 9 of that Schedule (housing costs to be met in jobseeker’s allowance) on a loan which qualifies under paragraph 14 or 15 of that Schedule, but less any amount deducted under paragraph 17 of that Schedule (non-dependant deductions), ▶or

(c) Schedule II to the State Pension Credit Regulations in accordance with paragraph 7 of that Schedule (housing costs to be met in state pension credit) on a loan which qualified under paragraph 11 or 12 of that Schedule, but less any amount deducted under paragraph 14 of that Schedule (non-dependant deductions);◀

as the case may be.◀

Defn. of “housing costs” substituted by reg. 2(26)(a)(i) of S.I. 1996/1460 as from 7.10.96.

Para. (c) inserted in defn. of “housing costs” by reg. 14(1)(a)(ii) of S.I. 2002/3019 as from 6.10.03.

Defn. of “income support” substituted by reg. 2(7)(a)(i) of S.I. 1989/136 as from 27.2.89.

Defn. of “mortgage payment” substituted by reg. 2(26)(a)(ii) of S.I. 1996/1460 as from 7.10.96.

Para. (c) inserted in defn. of “mortgage payment” by reg. 14(1)(a)(iii) of S.I. 2002/3019 as from 6.10.03.

(a) S.I. 1987/1971.

(b) S.I. 1987/1969, amended by S.I. 1988/521 and 670.

(c) S.I. 1987/1967.

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(a) Words in defn. of “personal allowance ...” inserted & substituted by reg. 14(1)(a)(iv) of S.I. 2002/3019 as from 6.10.03.

Words substituted in defn. of “personal allowance ...” by reg. 12(f) of S.I. 1991/2284 as from 1.11.91.

Words inserted in defn. of “personal allowance” by reg. 2(26)(a)(iv) of S.I. 1996/1460 as from 7.10.96.

See note (a) above.

Defn. of “prisoner” deleted by reg. 2(7)(a)(ii) of S.I. 1989/136 as from 27.2.89.

Defn. of “specified benefit” substituted by reg. 2(7) of S.I. 1996/672 as from 4.4.96.

Para. (a) substituted in defn. of “specified benefit” and para. (b) omitted by reg. 12 of S.I. 2002/2441 as from 23.10.02.

Para. (c) added to defn. of “specified benefit” by reg. 2(26)(a)(iii) of S.I. 1996/1460 as from 7.10.96.

Words added to defn. of “specified benefit” by reg. 16(2)(a) of S.I. 1996/3195 as from 7.4.97.

Words substituted in defn. of “specified benefit” by reg. 8(10) of S.I. 1997/454 as from 6.4.97

Head (d) inserted in defn. of “specified benefit” by reg.

14(1)(a)(v) of S.I. 2002/3019 as from 6.10.03.

Defn. of “water charges” substituted by reg. 8(2) of S.I. 1992/2595 as from 16.11.92.

Defn. of “water undertaker” added by reg. 12(g) of S.I. 1991/2284 as from 1.11.91.

Para. 1(2) inserted by reg. 2(26)(b) of S.I. 1996/1460 as from 7.10.96.

“personal allowance for a single claimant aged not less than 25 years” means the amount specified ►in connection with income support and state pension credit◄ in ►paragraph 1(1)(e)◄ of column 2 of Schedule 2 to the Income Support Regulations ►or, ►in connection with jobseekers allowance◄, paragraph 1(1)(e) of Schedule 1 to the Jobseeker’s Allowance Regulations◄;

►◄

“rent” has the meaning assigned to it in the Housing Benefit Regulations and, for the purposes of this Schedule—

- (a) includes any water charges which are paid with or as part of the rent;
- (b) where in a particular case a claimant’s rent includes elements which would not otherwise fall to be treated as rent, references to rent shall include those elements; and
- (c) references to “rent” include references to part only of the rent; and

►“specified benefit” means—

- (a) income support, which is either paid alone or paid together with any incapacity benefit, retirement pension or severe disablement allowance in a combined payment in respect of any period; and◄
- (b) ►◄
- (c) subject to sub-paragraph (2), jobseeker’s allowance;◄ ►but does not include any sum payable by way of child maintenance bonus in accordance with section 10 of the Child Support Act 1995)(a) and the ►Social Security (Child Maintenance Bonus)◄ Regulations 1996;◄
- (d) state pension credit which is either paid alone or paid together with any retirement pension, incapacity benefit, or severe disablement allowance in a combined payment in respect of any period;◄

►“water charges” means charges for water or sewerage under Chapter I of Part V of the Water Industry Act 1991(b);◄

►“water undertaker” means a company which has been appointed under section 11(1) of the Water Act 1989(c) to be the water or sewerage undertaker for any area in England and Wales.◄

►(2) For the purposes of the definition of “specified benefit” in sub-paragraph (1), “jobseeker’s allowance” means—

- (a) income-based jobseeker’s allowance; and
- (b) in a case where, if there was no entitlement to contribution-based jobseeker’s allowance, there would be entitlement to income-based jobseeker’s allowance at the same rate, contribution-based jobseeker’s allowance.◄

(a) 1995 c. 34.

(b) 1991 c. 56.

(c) 1989 c. 15.

General

2.—(1) The specified benefit may be paid direct to a third party in accordance with the following provisions of this Schedule in discharge of a liability of the beneficiary or his partner to that third party in respect of—

- (a) housing costs;
- (b) miscellaneous accommodation costs;
- ▶(bb) hostel payments;◀
- (c) service charges for fuel, and rent not falling within head (a) above;
- (d) fuel costs; ▶◀
- (e) water charges ▶; and ◀
- ▶(f) payments in place of payments of child support maintenance under section 43(1) of the Child Support Act 1991(a) and regulation 28 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(a).◀

Para. 2(1)(bb) inserted by reg. 13 of S.I. 1991/2284 as from 1.11.91.

Word “and” deleted from para. 2(1)(d) and added to para. 2(1)(e) and para.

2(1)(f) inserted by reg. 2(a) of S.I. 1993/478 as from 1.4.93.

(2) No payment to a third party may be made under this Schedule unless the amount of the beneficiary’s award of the specified benefit is not less than the total of the amount otherwise authorised to be so paid under this Schedule plus 10 pence.

(3) A payment to be made to a third party under this Schedule shall be made, at such intervals as the Secretary of State may direct, on behalf of and in discharge (in whole or in part) of the obligation of the beneficiary or, as the case may be, of his partner, in respect of which the payment is made.

Housing costs

3.—(1) Subject to ▶sub-paragraphs (4) to (6)◀ and paragraph 8, where a beneficiary who has been awarded the specified benefit or his partner is in debt for any item of housing costs which continues to be applicable to the beneficiary in the determination of his applicable amount ▶or appropriate minimum guarantee◀, the ▶Secretary of State◀ may, if in ▶his◀ opinion it would be in the interests of the family to do so, determine that the amount of the award of the specified benefit (“the amount deductible”) calculated in accordance with the following sub-paragraphs shall be paid in accordance with sub-paragraph 2(3).

Words in para. 3(1) substituted by reg. 5(2)(a) of S.I. 1992/1026 as from 25.5.92 (or later—see reg. 1(4) *ibid.*).

(a) Words inserted in para. 3(1) & (2A)(a) by reg. 14(1)(b)(i) of S.I. 2002/3019 as from 6.10.03.

(2) ▶Subject to sub-paragraphs (2A) and (3)◀, the amount deductible shall be such weekly aggregate of the following as is appropriate:—

(b) Words substituted in para. 3(1) & (2) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

- (a) in respect of any debt to which sub-paragraph (1) applies, or where the debt owed is in respect of an amount which includes more than one item of housing costs, a weekly amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 ▶◀ for such period as it is necessary to discharge that debt, so however that in aggregate the weekly amount calculated under this sub-paragraph shall not exceed 3 times that 5 per cent.;
- (b) for each such debt—

Words in para. 3(1) substituted by para. 16(a) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

- (i) in respect of mortgage payments, the weekly amount of the mortgage payment in that case; and
- (ii) for any other housing item, the actual weekly cost necessary in respect of continuing needs for the relevant items.

Words in para. 3(2) substituted by reg.5(2)(b) of S.I. 1992/1026 as from 25.5.92 (or later—see reg. 1(4) *ibid.*).

Words in para. 3(2)(a) deleted by reg. 11(2) of S.I. 1988/522 as from 11.4.88.

and the ▶Secretary of State◀ may direct that, when the debt is discharged, the amount determined under sub-paragraph (b) shall be the amount deductible.

See note (b) above.

▶(2A) Where a payment falls to be made to a third party in accordance with this Schedule, and—

Para. 3(2A) inserted by reg. 5(2)(c) of S.I. 1992/1026 as from 25.5.92 (or later—see reg. 1(4) *ibid.*).

- (a) more than one item of housing costs falls to be taken into account in determining the beneficiary’s applicable amount ▶or appropriate minimum guarantee◀; and

See note (a) above.

(a) S.I. 1992/1815.

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Words inserted in para. 3(2A)(b) by reg. 3 of S.I. 1995/2927 as from 12.12.95.

(a) Words in para. 3(2A) substituted for refs. to paras. 10 and 11 by para. 3 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

(b) Words inserted in para. 3(2A) by reg. 2(26)(c) of S.I. 1996/1460 as from 7.10.96.

(c) Words inserted in para. 3(2A)(b) & in C of the formula by reg. 14(1)(b)(ii) of S.I. 2002/3019 as from 6.10.03.

See note (a) above.

See note (b) above.

See note (c) above.

Words in para. 3(4)(a) of Sch. 9 inserted by reg. 8(3) of S.I. 1992/2595 as from 16.11.92.

(c) Words substituted in para. 3(4) & 4(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

Para. 3(5) and (6) inserted by reg. 5(2)(d) of S.I. 1992/1026 as from 25.5.92 (or later—see reg. 1(4) *ibid.*).

Words inserted in para. 3(5)(a) by reg. 5(4) of S.I. 2002/3197 as from 7.4.03.

Words in para. 4(1) substituted by para. 8(1) of Sch. 1 to S.I. 1992/3147 as from 1.4.93.

Words in para. 4(1) & (1)(a) substituted & inserted by reg. 2(2)(a) & (b) of S.I. 2003/2325 as from 6.10.03.

(b) in accordance with ►paragraph 4(8) or (11) or◄ ►paragraph 18◄ of Schedule 3 to the Income Support Regulations ►or, as the case may be, paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker's Allowance Regulations◄ ►or paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations◄ an amount is not allowed or a deduction falls to be made from the amount to be met by way of housing costs,

then in calculating the amount deductible, the weekly aggregate ascertained in accordance with sub-paragraph (2) shall be reduced by an amount determined by applying the formula—

$$C \times \frac{B}{A}$$

where—

A = housing costs;

B = the item of housing costs which falls to be paid to a third party under this Schedule;

C = the sum which is not allowed or falls to be deducted in accordance with ►paragraph 4(8) or (11) or paragraph 18◄ of Schedule 3 to the Income Support Regulations ►or, as the case may be, paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker's Allowance Regulations◄ ►or paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations◄

(3) Where the aggregate amount calculated under sub-paragraph (2) is such that paragraph 2(2) would operate to prevent any payment under this paragraph being made that aggregate amount shall be adjusted so that 10 pence of the award is payable to the beneficiary.

(4) Sub-paragraph (1) shall not apply to any debt which is either—

(a) in respect of mortgage payments and the beneficiary or his partner has in the preceding 12 weeks paid sums equal to ►or greater than◄ 8 week's mortgage payments due in that period; or

(b) for any other item of housing costs and is less than half the annual amount due to be paid by the beneficiary or his partner in respect of that item,

unless, in either case, in the opinion of the ►Secretary of State◄ it is in the overriding interests of the family that paragraph (1) should apply.

►(5) No amount shall be paid pursuant to this paragraph in respect of mortgage interest in any case where a specified part of relevant benefits—

(a) is required to be paid directly to a qualifying lender under regulation 34A ►or 34B◄ and Schedule 9A; or

(b) would have been required to be paid to a body which, or a person who, would otherwise have been a qualifying lender but for an election given under paragraph 9 of Schedule 9A not to be regarded as such.

(6) In sub-paragraph (5), “specified part” and “relevant benefits” have the meanings given to them in paragraph 1 of Schedule 9A.◄

Miscellaneous accommodation costs

►4.—(1) Where an award of income support ►, jobseeker's allowance or state pension credit◄—

(a) ►in the case of income support◄ is made to a person in a residential care

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- home or nursing home as defined in regulation 2(1) of the Income Support Regulations(a) or, in the case of jobseeker's allowance regulation 1(3) of the Jobseeker's Allowance Regulations, or
- (b) is made—
- (i) in the case of an award of income support, to a person who is in residential accommodation within the meaning of regulation 21(3) of the Income Support Regulations(b); or
 - (ii) to a person who is in accommodation provided under section 3(1) of, and Part II of the Schedule to, the Polish Resettlement Act 1947(c) (provision by the Secretary of State of accommodation in camps) except where that person is in receipt of state pension credit; or
 - (iii) in the case of an award of jobseeker's allowance, to a person who is in residential accommodation within the meaning of regulation 85(4) of the Jobseeker's Allowance Regulations(d); or
 - (iv) in the case of an award of state pension credit, to a person who is in accommodation provided within the meaning of regulation 15(7) of the State Pension Credit Regulations(e),

Words in para 4(1)(a) substituted by reg. 2(3)(a) of S.I. 2002/398 as from 8.4.02.
 Words inserted in para. 4(1) by reg. 2(26)(d)(ii) of S.I. 1996/1460 as from 7.10.96.
 (a) Words in para. 4(1)(a) substituted, (1)(b) substituted, words in para. 4(1) substituted & paras. 4(2) & (3) substituted for 4(2), (2A), (3) & (3A) by reg. 2(2) of S.I. 2003/2325 as from 6.10.03.

(or to a person who is only temporarily absent from such accommodation) the Secretary of State may determine that an amount of the pecified benefit shall be paid direct to the person or body to whom the charges in respect of that accommodation are payable hereafter in this paragraph referred to as "miscellaneous accommodation costs", but, except in a case where accommodation is provided under section 3(1) of, and Part II of the Schedule to, the Polish Resettlement Act 1947 or where the accommodation is run by a voluntary organisation either for purposes similar to the purposes for which resettlement units are provided or which provides facilities for alcoholics or drug addicts, only if the Secretary of State is satisfied that the beneficiary has failed to budget for the charges and that it is in the interests of the family.

(b) Words substituted in para. 4(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.
 See note (a) above.
 Words substituted in para. 4(1) by reg. 2(7)(b)(i)(bb) of S.I. 1989/136 as from 27.2.89.
 See note (b) above.

(2) Subject to sub-paragraphs (3) and (3A), the amount of any payment of income support, jobseeker's allowance or state pension credit to a third party determined under sub-paragraph (1) shall be—

See note (a) above

- (a) in a case where the beneficiary is not in accommodation—
 - (i) as specified in sub-paragraph (1)(b)(i) or (iii); or
 - (ii) as specified in regulation 15(7)(d) of the State Pension Credit Regulations,
 an amount equal to the award of income support, jobseeker's allowance, or guarantee credit payable to the claimant but excluding an amount, if any, which when added to any other income of the beneficiary as determined in accordance with regulation 28 of the Income Support Regulations, regulation 93 of the Jobseeker's Allowance Regulations or regulation 17 of the State Pension Credit Regulations will equal the amount prescribed in respect of personal expenses in sub-paragraph (2A); and
- (b) in any other case, the amount of the award of income support, jobseeker's allowance or guarantee credit, excluding the amount allowed by sub-paragraph (2A) in respect of personal expenses.

(2A) The amount in respect of personal expenses where a beneficiary is in accommodation referred to in paragraphs 4(1)(a) or (b) shall be—

- (a) for a single person the sum of £18.10;
- (b) for a couple where both members of the couple are in such accommodation, £18.10 for each member;
- (c) for a member of a polygamous marriage where more than one member is in such accommodation, £18.10 for each member in such accommodation.

Amounts substituted in para. 4(2A) of Sch. 9 by reg. 2 of S.I. 2004/576 as from 12.4.04.

(a) See regulation 2(1).
 (b) S.I. 1987/1967. Relevant amending instruments are S.I. 1992/3147, 1994/2139 and S.I. 1995/516.
 (c) c. 14.
 (d) S.I. 1996/1460 as amended by S.I. 1996/2538.
 (e) S.I. 2002/1792.

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- (3) This sub-paragraph shall apply where an award is made of—
- (a) income support calculated in accordance with Part VII of the Income Support Regulations (calculation of income support for part-weeks); or
 - (b) jobseeker's allowance calculated in accordance with Part XI of the Jobseeker's Allowance Regulations (part-weeks); or
 - (c) state pension credit for a period of less than a week calculated under regulation 13A of the State Pension Credit Regulations^(a) (part-weeks), or a part week payment of state pension credit calculated otherwise.

(3A) Where sub-paragraph (3) applies then the amount of any payment to a third party determined under sub-paragraph (1) shall be an amount calculated in accordance with sub-paragraph (2)(a) or (b) as appropriate except that in respect of—

- (a) the income of the beneficiary, if any; and
- (b) the amount allowed for personal expenses by sub-paragraph (2A) above,

the amount shall be the amount used in the calculation under the provisions listed in sub-paragraph (3)(a), (b) or (c), divided by 7 and multiplied by the number of days in the part-week and no payment shall be made to a third party where the Secretary of State certifies it would be impracticable to do so in that particular case.◀

▶(4) Where the amount calculated under sub-paragraphs (2) or (3) is such that paragraph 2(2) would operate to prevent any payment under this paragraph being made the amount shall be adjusted so that 10 pence of the award is payable to the beneficiary.◀

Para. 4(4) added by reg. 2(7)(b)(iii) of S.I. 1989/136 as from 27.2.89.

Para. 4A inserted by reg. 15 of S.I. 1991/2284 as from 1.11.91.

▶**Hostel payments**

4A.—(1) This paragraph applies to a beneficiary if—

- (a) he has been awarded specified benefit; and
- (b) he or his partner has claimed housing benefit in the form of a rent rebate or rent allowance; and
- (c) he or his partner is resident in a hostel; and
- (d) the charge for that hostel includes a payment, whether direct or indirect, for one or more of the following services—
 - (i) water;
 - (ii) a service charge for fuel;
 - (iii) meals;
 - (iv) laundry;
 - (v) cleaning (other than communal areas).

(2) Subject to sub-paragraph (3) below, where a beneficiary ▶◀ has been awarded specified benefit the ▶Secretary of State◀ may determine that an amount of specified benefit shall be paid to the person or body to whom the charges referred to in sub-paragraph (1)(d) above are or would be payable.

(3) The amount of any payment to a third party under this paragraph shall be either—

- (a) the aggregate of the amounts determined by a housing authority in accordance with the provisions specified in sub-paragraph (4); or
- (b) if no amount has been determined under paragraph (a) of this sub-paragraph, an amount which the ▶Secretary of State◀ estimates to be the amount which is likely to be so determined.

(4) The provisions referred to in sub-paragraph (3)(a) above are regulation 10(6) of, and paragraphs 1(a)(ii) and (iv), ▶1A, 2, 3 and either 5(1)(b) or 5(2) or 5(2A)◀ or 5(3) of Schedule 1 to, the Housing Benefit Regulations^(a).

(5) Sub-paragraph (2) above shall not apply to a deduction in respect of a service charge for fuel if that charge is one such as is mentioned in paragraph 5(5) of Schedule 1 to the Housing Benefit Regulations (variable service charges for fuel) unless the ▶Secretary of State◀ is satisfied on the evidence available at the date of the determination that the amount of the charge does not normally alter more than twice in any one year.

See note (a) above.

See note (b) above.

(a) Regulation 13A was inserted by regulation 2 of S.I. 2002/3019

(b) S.I. 1987/1971. Relevant amending instruments are S.I. 1988/1444 and 1990/546.

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►(6) Where—

- (a) an award of income support is calculated in accordance with regulation 73(1) of the Income Support Regulations (calculation of income support for part-weeks); or
- (b) an award of jobseeker’s allowance is calculated in accordance with regulation 150(1) of the Jobseeker’s Allowance Regulations (amount of a jobseeker’s allowance payable),

Para. 4A(6) substituted by reg. 2(26)(e) of S.I. 1996/1460 as from 7.10.96.

the amount of any payment of income support or, as the case may be, jobseeker’s allowance payable to a third party determined under sub-paragraph (2) above shall be an amount calculated in accordance with sub-paragraph (3)(a) or(b) above divided by 7 and multiplied by the number of days in the part-week, and no payment shall be made to a third party under this sub-paragraph where the Secretary of State certifies that it would be impracticable to do so in that particular case.◄◄

Service charges for fuel, and rent not falling within paragraph 2(I)(a)

5.—(1) Subject to paragraph 8, this paragraph applies to a beneficiary if—

- (a) he has been awarded the specified benefit; and
- (b) he or his partner is entitled to housing benefit in the form of a rent rebate or rent allowance; and
- (c) he or his partner has arrears of rent which equal or exceed four times the full weekly rent payable and—
 - (i) there are arrears of rent in respect of at least 8 weeks and the landlord has requested the Secretary of State to make payments in accordance with this paragraph; or
 - (ii) there are arrears of rent in respect of less than 8 weeks and in the opinion of the ►Secretary of State◄ it is in the overriding interests of the family that payments shall be made in accordance with this paragraph.

Words substituted in para. 5(1)(c)(ii) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(2) For the purposes of sub-paragraph (1) arrears of rent do not include—

- (a) the 20 per cent. of eligible rates excluded from a rent allowance under regulation 61 of the Housing Benefit Regulations (maximum housing benefit); or
- (b) any amount which falls to be deducted when assessing a person’s rent rebate or rent allowance under regulation 63 of those Regulations (non-dependants).

(3) Subject to sub-paragraph (4), the ►Secretary of State◄ shall determine that a weekly amount of the specified benefit awarded to the beneficiary shall be paid to his or his partner’s landlord if—

- (a) he or his partner is entitled to housing benefit and in calculating that benefit a deduction is made under regulation 10(3) of the Housing Benefit Regulations in respect of either or both of water charges or service charges for fuel; and
- (b) the amount of the beneficiary’s award is not less than the amount of the deduction,

Words substituted in para. 5(3) & (4) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

and the amount to be so paid shall be equal to the amount of the deduction.

(4) Sub-paragraph (3) shall not apply to a deduction in respect of a service charge for fuel if that charge is one such as is mentioned in paragraph 5(5) of Schedule 1 to the Housing Benefit Regulations (variable service charges for fuel) unless the ►Secretary of State◄ is satisfied on the evidence available at the date of the determination that the amount of the charge does not normally alter more than twice in any one year.

Para. 5(5) substituted by reg. 2(26)(f) of S.I. 1996/1460 as from 7.10.96.

►(5) A determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraphs (3) and (6) exceeds a sum equal to 25 per cent. of the applicable amount for the family as is awarded under-

- (a) in the case of income support, sub-paragraphs (a) to (d) of regulation 17(1) (applicable amounts) or sub-paragraphs (a) to (e) of regulation 18(1) (polygamous marriages) of the Income Support Regulations; or
- (b) in the case of jobseeker's allowance, paragraphs (a) to (e) of regulation 83 (applicable amounts) or sub-paragraphs (a) to (f) of regulation 84(1) (polygamous marriages) of the Jobseeker's Allowance Regulations.◀

Sub-para. (5A) inserted by reg. 14(1)(c) of S.I. 2002/3019 as from 6.10.03.

►(5A) In the case of state pension credit, a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount determined in accordance with sub-paragraphs (3) and (6) exceeds a sum equal to 25 per cent of the appropriate minimum guarantee less any housing costs under Schedule 11 to the State Pension Credit Regulations which may be applicable in the particular case.◀

(a) Words substituted in para. 5(6) & (7) & 6(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(6) In a case to which sub-paragraph (1) applies the ►Secretary of State◀ may determine that a weekly amount of the special benefit awarded to that beneficiary equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 ►◀ shall be paid to his landlord until the debt is discharged.

Words deleted from para. 5(6) by reg. 16 of S.I. 1991/2284 as from 1.11.91.

►(7) Immediately after the discharge of any arrears of rent to which sub-paragraph (1) applies and in respect of which a determination has been made under sub-paragraph (6) the ►Secretary of State◀ may, if satisfied that it would be in the interests of the family to do so, direct that an amount, equal to the amount by which the eligible rent is to be reduced by virtue of regulation 10(3) of the Housing Benefit Regulations in respect of charges for water or service charges for fuel or both, shall be deductible.◀

Para. 5(7) added by reg. 8(5) of S.I. 1992/2595 as from 16.11.92. Under reg. 1(2) *ibid.*, "Housing Benefit Regulations" means the Housing Benefit (General) Regulations 1987.

Fuel costs

See note (a) above.

Words in para. 6(1) substituted by reg. 14(1)(d)(i) of S.I. 2002/3019 as from 6.10.03.

6.—(1) ►Subject to sub-paragraph (6) and (6A)◀ and paragraph 8, where a beneficiary who has been awarded the special benefit or his partner is in debt for any item of mains gas or mains electricity ►including any charges for the reconnection of gas or disconnection or reconnection of electricity◀ ("fuel item") to an amount not less than the rate of personal allowance for a single claimant aged not less than 25 and continues to require that fuel, the ►Secretary of State◀, if in its opinion it would be in the interests of the family to do so, may determine that the amount of the award of the specified benefit ("the amount deductible") calculated in accordance with the following paragraphs shall be paid to the person or body to whom payment is due in accordance with paragraph 2(3).

Words in para. 6(1) substituted by reg. 7(2) of S.I. 1994/2319 as from 3.10.94.

See note (a) above.

(2) The amount deductible shall, in respect of any fuel item, be such weekly aggregate of the following as is appropriate:—

Para. 6(2)(a) substituted & 6(3) deleted by reg. 17 of S.I. 1991/2284 as from 1.11.91.

- (a) in respect of each debt to which sub-paragraph (1) applies ("the original debt"), a weekly amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 for such period as is necessary to discharge the original debt, but the aggregate of the amounts, calculated under this paragraph shall not exceed twice 5 per cent. of the personal allowance for a single claimant aged not less than 25;◀
- (b) except where current consumption is paid for by other means (for example pre-payment meter), an amount equal to the estimated average weekly cost necessary to meet the continuing needs for that fuel item, varied, when appropriate, in accordance with sub-paragraph (4)(a).

(3) ►◀

(4) Where an amount is being paid direct to a person or body on behalf of the beneficiary or his partner in accordance with a determination under sub-

paragraph (1) and ►a decision which embodies that determination falls to be superseded◄—

Words substituted in para. 6(4) by para. 16(b) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

- (a) where since the date of that determination the average weekly cost estimated for the purpose of sub-paragraph (2)(b) has either exceeded or has proved insufficient to meet the actual cost of continuing consumption so that in respect of the continuing needs for that fuel item the beneficiary or his partner is in credit or, as the case may be, a further debt has accrued, the ►Secretary of State◄ may determine that the weekly amount calculated under that paragraph shall, for a period of 26 weeks ►or such longer period as may be reasonable in the circumstances of the case◄, be adjusted so as to take account of that credit or further debt;
- (b) where an original debt in respect of any fuel item has been discharged the ►Secretary of State◄ may determine that the amount deductible in respect of that fuel item shall be the amount determined under sub-paragraph (2)(b).

(a) Words substituted in para. 6(4)(a) by para. 12 of Sch. 3 to S.I. 1999/3178 as from 18.10.99. Words in para. 6(4)(a) of Sch. 9 inserted by reg. 8(6) of S.I. 1992/2695 as from 16.11.92. See note (a) above.

(5) ►◄

Para. 6(5) deleted by reg. 17(b) of S.I. 1991/2284 as from 1.11.91. Para. 6(6) substituted by reg. 2(26)(g) of S.I. 1996/1460 as from 7.10.96.

►(6) Subject to paragraph 8, a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraph (2) exceeds a sum equal to 25 per cent. of the applicable amount for the family as is awarded under—

- (a) in the case of income support, sub-paragraphs (a) to (d) of regulation 17(1) (applicable amounts) or sub-paragraphs (a) to (e) of regulation 18(1) (polygamous marriages) of the Income Support Regulations; or
- (b) in the case of a jobseeker’s allowance, paragraphs (a) to (e) of regulation 83 (applicable amounts) or sub-paragraphs (a) to (f) of regulation 84(1) (polygamous marriages) of the Jobseeker’s Allowance Regulations.◄

►(6A) Subject to paragraph 8, in the case of state pension credit, a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraph (2) exceeds a sum equal to 25 per cent of the appropriate minimum guarantee less any housing costs under Schedule II to the State Pension Credit Regulations which may be applicable in the particular case.◄

Sub-para. (6A) inserted by reg. 14(1)(d)(ii) of S.I. 2002/3019 as from 6.10.03.

(7) ►◄

Para. 6(7) deleted by reg. 17(b) of S.I. 1991/2284 as from 1.11.91. Para. 7 substituted by reg. 18 of S.I. 1991/2284 as from 1.11.91.

► **Water charges**

7.—(1) This paragraph does not apply where water charges are paid with rent; and in this paragraph “original debt” means the debt to which sub-paragraph (2) applies, ►including any disconnection or reconnection charges and any other costs (including legal costs) arising out of that debt◄.

Words in para. 7(1) substituted by reg. 7(3) of S.I. 1994/2319 as from 3.10.94.

(2) Where a beneficiary or his partner is liable, whether directly or indirectly, for water charges and is in debt for those charges, the ►Secretary of State◄ may determine, subject to paragraph 8, that a weekly amount of the specified benefit shall be paid either to a water undertaker to whom that debt is owed, or to the person or body authorised to collect water charges for that undertaker, ►but only if ►the Secretary of State◄ is satisfied that the beneficiary or his partner has failed to budget for those charges, and that it would be in the interests of the family to make the determination.◄

Words substituted in para. 7(2) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

Words in para. 7(2) of Sch. 9 substituted by reg. 8(7)(a) of S.I. 1992/2595 as from 16.11.92.

(3) Where water charges are determined by means of a water meter, the weekly amount to be paid under sub-paragraph (2) shall be the aggregate of—

Words substituted in para. 7(2) by para. 16(c) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

- (a) in respect of the original debt, an amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years; and

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(a) Words substituted in para. 7(3)(b), (4) & (6) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

Words in para. 7(4) substituted by reg. 8(7)(b) of S.I. 1992/2595 as from 16.11.92.

See note (a) above.

Para. 7(8) substituted by reg. 2(26)(h) of S.I. 1996/1460 as from 7.10.96.

Para. 7A inserted by reg. 2(b) of S.I. 1993/478 as from 1.4.93.

Para. 7A(1) substituted by reg. 3(11) of S.I. 1993/2113 as from 27.9.93.

Words substituted in para. 7A(1) by art. 4 of S.I. 1999/1510 as from 1.6.99.

Words substituted in para. 7A(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(b) the amount which the ►Secretary of State◄ estimates to be the average weekly cost necessary to meet the continuing need for water consumption.

(4) Where the sum estimated in accordance with sub-paragraph (3)(b) proves to be greater or less than the average weekly cost necessary to meet the continuing need for water consumption so that a beneficiary or his partner accrues a credit, or as the case may be a further debt, the ►Secretary of State◄ may determine that the sum so estimated shall be adjusted for a period of 26 weeks ►or such longer period as may be reasonable in the circumstances of the case◄ to take account of that credit or further debt.

(5) Where water charges are determined other than by means of a water meter the weekly amount to be paid under sub-paragraph (2) shall be the aggregate of—

(a) the amount referred to in sub-paragraph (3)(a); and

(b) an amount equal to the weekly cost necessary to meet the continuing need for water consumption.

(6) When the original debt in respect of water charges is discharged, the ►Secretary of State◄ may direct that the amount deductible shall be—

(a) where water charges are determined by means of a water meter, the amount determined under sub-paragraph (3)(b) taking into account any adjustment that may have been made in accordance with sub-paragraph (4); and

(b) in any other case, the amount determined under sub-paragraph (5)(b).

(7) Where the beneficiary or his partner is in debt to two water undertakers—

(a) only one weekly amount under sub-paragraph (3)(a) or (5)(a) shall be deducted; and

(b) a deduction in respect of an original debt for sewerage shall only be made after the whole debt in respect of an original debt for water has been paid; and

(c) deductions in respect of continuing charges for both water and for sewerage may be made at the same time.

►(8) Subject to paragraph 8 (maximum amount of payments to third parties), a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraphs (3), (4), (5) and (6) exceeds a sum equal to 25 per cent. of the applicable amount for the family as is awarded under—

(a) in the case of income support, sub-paragraphs (a) to (d) of regulation 17(1) (applicable amounts) or sub-paragraphs (a) to (e) of regulation 18(1) (polygamous marriages) of the Income Support Regulations; or

(b) in the case of jobseeker's allowance, paragraphs (a) to (e) of regulation 83 (applicable amounts) or sub-paragraphs (a) to (f) of regulation 84(1) (polygamous marriages) of the Jobseeker's Allowance Regulations.◄◄

►Payments in place of payments of child support maintenance

7A.—►(1) Subject to sub-paragraph (2), ►the Secretary of State◄ has determined that section 43 of that Act and regulation 28 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (contribution to maintenance by deduction from benefit) apply in relation to a beneficiary or his partner, the ►Secretary of State◄ shall subject to paragraph 8, if it is satisfied that there is sufficient specified benefit in payment, determine that a weekly amount of that benefit shall be deducted by the Secretary of State for transmission to the person or persons entitled to it.◄

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(2) Not more than one deduction shall be made under ►sub-paragraph (1)◄ in any one benefit week as defined in paragraph 4 of Schedule 7.

Words in para. 7A(2) substituted by reg. 3(12) of S.I. 1993/2113 as from 27.9.93.

(3) ►Subject to sub-paragraph (4),◄ the amount of specified benefit to be paid under this paragraph shall be the amount prescribed by regulation 28(2) of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 for the purposes of section 43(2)(a) of the Child Support Act 1991►◄.

Words inserted and deleted in para. 7A(3) & para. 7A(4) inserted by reg. 5(2) & (3) of S.I. 1996/481 as from 8.4.96.

►(4) Where, apart from the provisions of this sub-paragraph, the provisions of paragraphs 8(1) and 9 would result in the maximum aggregate amount payable equalling 2 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years, the amount of specified benefit to be paid under this paragraph shall be one half of the amount specified in sub-paragraph (3).◄

►Arrears of child support maintenance

Para. 7B inserted by reg. 25(3) of S.I. 1996/2344 as from 7.10.96.

7B.—(1) Where a beneficiary is entitled to contribution-based jobseeker’s allowance and an arrears notice has been served on the beneficiary, the Secretary of State may request in writing that an amount in respect of arrears of child support maintenance be deducted from the beneficiary’s jobseeker’s allowance.

(2) Where a request is made in accordance with sub-paragraph (1), the ►Secretary of State◄ shall determine that an amount in respect of the arrears of child support maintenance shall be deducted from the beneficiary’s jobseeker’s allowance for transmission to the person entitled to it.

Words substituted in para. 7B(2) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(3) Subject to sub-paragraphs (4) and (5), the amount to be deducted under sub-paragraph (2) shall be the weekly amount requested by the Secretary of State, subject to a maximum of one-third of the age-related amount applicable to the beneficiary under section 4(1)(a) of the Jobseekers Act.

(4) No deduction shall be made under this paragraph where a deduction is being made from the beneficiary’s contribution-based jobseeker’s allowance under the Community Charges Regulations, the Community Charges (Scotland) Regulations, the Fines Regulations or the Council Tax Regulations.

(5) Where the sum that would otherwise fall to be deducted under this paragraph includes a fraction of a penny, the sum to be deducted shall be rounded down to the next whole penny.

(6) In this paragraph—

“arrears notice” means a notice served in accordance with regulation 2(2) of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(a) ; and

“child support maintenance” means such periodical payments as are referred to in section 3(6) of the Child Support Act 1991(b).◄

(a) S.I. 1992/1816

(b) 1991 c. 48.

Maximum amount of payments to third parties

8.—(1) The maximum aggregate amount payable under paragraphs 3(2)(a), 5(6), 6(2)(a), 7(3)(a), 7(5)(a) and 7A, and regulation 7 of the Council Tax Regulations and regulation 6 of the Fines Regulations shall not exceed an amount equal to 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years.

(2) The maximum aggregate amount payable under paragraph 3(2)(a), 5, 6 and 7 shall not without the consent of the beneficiary, exceed a sum equal to 25 per cent. of so much of the applicable amount for the family as is awarded under

- (a) in the case of income support, sub-paragraphs (a) to (d) of regulations 17(1) (applicable amounts) or sub-paragraphs (a) to (e) of regulation 18(1) (polygamous marriages) of the Income Support Regulations; or
- (b) in the case of a jobseeker's allowance, paragraphs (a) to (e) of regulation 83 (applicable amounts) or sub-paragraphs (a) to (f) of regulation 84(1) (polygamous marriages) of the Jobseeker's Allowance Regulations.

(2A) In the case of state pension credit, the maximum aggregate amount payable under paragraphs 3(2)(a), 5, 6 and 7 shall not, without the consent of the beneficiary, exceed a sum equal to 25 per cent. of the appropriate minimum guarantee less any housing costs under Schedule II to the State Pension Credit Regulations which may be applicable in the particular case.

◀

Priority as between certain debts

9.—(1A) Where in any one week—

- (a) more than one of paragraphs 3 to 7A are applicable to the beneficiary; or
- (b) one or more of those paragraphs are applicable to the beneficiary and one or more of the following provisions, namely, regulation 2 of the Community Charges Regulations, regulation 2 of the Community Charges (Scotland) Regulations, regulation 6 of the Fines Regulations and regulation 7 of the Council Tax Regulations also applies; and
- (c) the amount of the specified benefit which may be made to third parties is insufficient to meet the whole of the liabilities for which provision is made;

the order of priorities specified in sub-paragraph (1B) shall apply.

(1B) The order of priorities which shall apply in sub-paragraph (1A) is—

- (za)
 - (a) any liability mentioned in paragraph 3 (housing costs);
 - (b) any liability mentioned in paragraph 5 (service charges for fuel and rent not failing within paragraph 2(1)(a));
 - (c) any liability mentioned in paragraph 6 (fuel costs);
 - (d) any liability mentioned in paragraph 7 (water charges);
 - (e) any liability mentioned in regulation 2 of the Community Charges Regulations (deductions from income support), regulation 2 of the Community Charges (Scotland) Regulations (deductions from income support) or any liability mentioned in regulation 7 of the Council Tax Regulations (deductions from debtor's income support);
 - (f) any liability mentioned in regulation 6 of the Fines Regulations (deductions from offenders income support);
 - (g) any liability mentioned in paragraph 7A (payments in place of payments of child support maintenance).

Word substituted in para. 8(1) by reg. 6 of S.I. 1996/481 as from 8.4.96.

Reference substituted in para. 8(1) by reg. 19(a) of S.I. 1991/2284 as from 1.11.91

(a) Words substituted in para. 8(1) by reg. 2(3)(a) & (b) of S.I. 1993/495 as from 1.4.93.

Words in para. 8(1) omitted by reg. 7(2)(a) of S.I. 1997/827 as from 7.4.97.

See note (a) above.

Words in para. 8(1) substituted by reg. 7(4) of S.I. 1994/2319 as from 3.10.94

Word inserted into para. 8(2) by reg. 16(3)(a) of S.I. 1990/2208 as from 5.12.90.

Words substituted in para. 8(2) by reg. 19(b) of S.I. 1991/2284 as from 1.11.91.

Heads (a) and (b) substituted for words in para. 8(2) by reg. 2(26)(j) of S.I. 1996/1460 as from 7.10.96. Sub-para. (2A) inserted in para. 8 by reg.

14(1)(f) of S.I. 2002/3019 as from 6.10.03.

Para. 8(3) omitted by reg. 7(2)(b) of S.I. 1997/827 as from 7.4.97.

Para. 9(1A) and (1B) substituted for reg. 9(1) by reg. 2(4) of S.I. 1993/495 as from 1.4.93.

Words in para. 9(1A)(b) & (1B)(za) omitted by reg. 7(2)(c) & (d) of S.I. 1997/827 as from 7.4.97.

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(2) As between liability for items of housing costs liabilities in respect of mortgage payments shall have priority over all other items.

Words substituted in para. 9(3) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(3) As between liabilities for items of gas or electricity the ►Secretary of State◄ shall give priority to whichever liability it considers it would, having regard to the circumstances and to any requests of the beneficiary, be appropriate to discharge.

Sub-para. (4) of para. 9 deleted by reg. 20 of S.I. 1991/2284 as from 1.11.91.

(4) ►◄

►SCHEDULE 9A

DEDUCTIONS OF MORTGAGE INTEREST FROM BENEFIT AND
PAYMENT TO QUALIFYING LENDERS

Sch. 9A inserted by reg. 6 of S.I. 1992/1026 as from 29.4.92 (paras. 1 and 9) and as from 25.5.92 (all other paras.).

Interpretation**1.** In this Schedule—

“Income Support Regulations” means the Income Support (General) Regulations 1987(a);

►“relevant benefits” means—

- ▶(a) income support, which is either paid alone or paid together with any incapacity benefit, retirement pension or severe disablement allowance in a combined payment in respect of any period; and◀
- (b) ▶◀
- ▶(c) income-based jobseeker’s allowance ▶but does not include any sum payable by way of child maintenance bonus in accordance with section 10 of the Child Support Act 1995 and the ▶Social Security (Child Maintenance Bonus)◀ Regulations 1996;◀▶ and
- (d) state pension credit which is either paid alone or paid together with any retirement pension, incapacity benefit or severe disablement allowance in a combined payment in respect of any period;◀

“specified part” shall be construed in accordance with paragraph 3.

►Specified circumstances

2. The circumstances referred to in regulation 34A are that—

- ▶(a) ▶the amount to be met under—
 - (i) Schedule 3 to the Income Support Regulations; or
 - (ii) Schedule 2 to the Jobseeker’s Allowance Regulations; or
 - (iii) Schedule II to the State Pension Credit Regulations,◀
 by reference to the standard rate (whether at the full rate or a lesser rate) and, in the case of income support, to any amount payable in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations; and◀
- (b) the relevant benefits to which a relevant beneficiary is entitled are payable in respect of a period of 7 days or a multiple of such a period.◀

►Specified circumstances for the purposes of regulation 34B

2A.—(1) The circumstances referred to in regulation 34B are that—

- (a) the relevant beneficiary is entitled to a savings credit as construed in accordance with sections 1 and 3 of the 2002 Act and not to a guarantee credit; and
- (b) sub-paragraphs (a) and (b) of paragraph 2 apply.

(2) The further circumstances referred to in that regulation are that—

- (a) the relevant beneficiary has requested the Secretary of State in writing to make such payments to the qualifying lender; or
- (b) the Secretary of State has determined that it would be in the relevant beneficiary’s interests, or in the interests of his family, to make such payments to the qualifying lender.

(3) In making the determination referred to in sub-paragraph (2)(b), the Secretary of State shall have regard to whether or not the relevant beneficiary is in arrears with his payments to the qualifying lender.

Words in para. 1 deleted by reg. 7(3)(a) of S.I. 1997/827 as from 7.4.97.

Defn. of “relevant benefits” substituted by reg. 2(8)(a) of S.I. 1996/672 as from 4.4.96.

Para. (a) substituted & para. (b) omitted in defn. of “relevant benefits” by reg. 13 of S.I. 2002/2441 as from 23.10.02.

Para. (c) inserted in defn. of “relevant benefits” by reg. 2(27)(a)(ii) of S.I. 1996/1460 as from 7.10.96.

Words inserted in defn. of “relevant benefits” by reg. 16(2)(b) of S.I. 1996/3195 as from 7.4.97.

Words inserted in defn. of “relevant benefits” by reg. 8(10) of S.I. 1997/454 as from 6.4.97.

Sub-para. (d) in the defn. of “relevant benefits” inserted by reg. 14(2)(a) of S.I. 2002/3019 as from 6.10.03.

Para. 2 substituted by para. 6 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

Para. 2(a) substituted by reg. 2(27)(b) of S.I. 1996/1460 as from 7.10.96.

Words substituted in para. 2(a) by reg. 14(2)(b) of S.I. 2002/3019 as from 6.10.03.

Para. 2A inserted by reg. 5(5)(c) of S.I. 2002/3197 as from 7.4.03.

(a) S.I. 1987/1967.

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(4) For the purposes of sub-paragraph (2)(b), “a family” comprises the relevant beneficiary, his partner, any additional partner to whom section 12(1)(c) of the 2002 Act applies and any person who has not attained the age of 19, is treated as a child for the purposes of section 142 of the Contributions and Benefits Act and lives with the relevant beneficiary or the relevant beneficiary’s partner.◀

Specified part of relevant benefit

Para. 3(1) substituted for para. 3(1) and (2) by para. 7(a) of Sch. 2 to S.I. 1995/1613 as from 2.10.95.
Words substituted in para. 3(1) by para. 17 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.
Words substituted in para. 3(1) by para. 13 of Sch. 3 to S.I. 1999/2860 as from 18.10.99.
(a) Words in para. 3(1) & (3) & in defs. of A, B & C inserted & substituted by reg. 2(27)(c) of S.I. 1996/1460 as from 7.10.96.
(b) Sub-para. (1A) inserted & words substituted & inserted in sub-para. (3) & defs. of A, B & C by reg. 14(2)(c) of S.I. 2002/3019 as from 6.10.03.
Words inserted in sub-para. (1A) by reg. 5(d)(i) of S.I. 2002/3197 as from 6.10.03.
See note (a) above.
See note (b) above.
(c) Words in para. 3(3)(b) & defs. following formula substituted by para. 7(b) of Sch. 2 to S.I. 1995/1613 as from 2.10.95.
See note (a) above.
See note (b) above.
See note (a) above.
See note (b) above.

3.—▶(1) Subject to the following provisions of this paragraph, the part of any relevant benefits which, as determined by the ▶Secretary of State in accordance with regulation 34A, shall be paid◀ by ▶him◀ directly to the qualifying lender (“the specified part”) is ▶in, the case of income support,◀ a sum equal to the amount of the mortgage interest to be met in accordance with paragraphs 6 and 8 to 10 of Schedule 3 to the Income Support Regulations (housing costs) together with an amount (if any) determined under paragraph 7 of that Schedule (transitional protection) ▶or, in the case of jobseeker’s allowance, a sum equal to the amount of mortgage interest to be met in accordance with paragraphs 6 to 9 of Schedule 2 to the Jobseeker’s Allowance Regulations.◀◀

▶(1A) Subject to the following provisions of this paragraph, the part of state pension credit which, as determined by the Secretary of State in accordance with regulation 34A, shall be paid directly to the qualifying lender, ▶or, in accordance with regulation 34B, may be paid directly to the qualifying lender◀ is a sum equal to the amount of mortgage interest to be met under paragraph 7 of Schedule II to the State Pension Credit Regulations.◀

(There is no longer a sub-paragraph (2) in para. 3.)

(3) Where, in determining a relevant beneficiary’s applicable amount for the purposes of income support ▶or income-based jobseeker’s allowance◀▶or a relevant beneficiary’s appropriate minimum guarantee in state pension credit◀—

- (a) a sum in respect of housing costs is brought into account in addition to a sum in respect of mortgage interest; and
- (b) in accordance with ▶paragraph 4(8) or (11) or paragraph 18◀ of Schedule 3 to the Income Support Regulations ▶or, as the case may be ▶paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or◀, paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker’s Allowance Regulations◀ an amount is not allowed or a deduction falls to be made from the amount to be met under ▶either of those Schedules◀,

then the specified part referred to in ▶sub-paragraph (1) or (1A)◀ of this paragraph is the mortgage interest minus a sum calculated by applying the formula—

$$\frac{C \times B}{A}$$

A

▶where—

A = housing costs within the meaning of paragraph 1 of Schedule 3 to the Income Support Regulations ▶or, as the case may be ▶paragraph 1 of Schedule II to the State Pension Credit Regulations or◀, paragraph 1 of Schedule 2 to the Jobseeker’s Allowance Regulations◀;

B = the housing costs to be met in accordance with paragraphs 6 and 8 to 10 of Schedule 3 to the Income Support Regulations (housing costs) together with an amount (if any) determined under paragraph 7 of that Schedule (transitional protection) ▶or, as the case may be, ▶paragraph 7 of Schedule II to the State Pension Credit Regulations or◀ paragraphs 6 to 9 of Schedule 2 to the Jobseeker’s Allowance Regulations◀; and

C = the sum which is not allowed or falls to be deducted in accordance with paragraph 18 of Schedule 3 to the Income Support Regulations ▶or, as the case may be ▶paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or◀, paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker’s Allowance Regulations◀.◀

See note (c) above.

See note (a) above.
See note (b) above.

See note (a) above.
See note (b) above.

See note (a) above.
See note (b) above.

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(4) ▶Except where the relevant benefit is state pension credit,◀ where a payment is being made under a policy of insurance taken out by a beneficiary to insure against the risk of his being unable to maintain repayments of mortgage interest to a qualifying lender, then the amount of any relevant benefits payable to that lender shall be reduced by a sum equivalent to so much of the amount payable under the policy of insurance as represents payments in respect of mortgage interest.

(a) Words inserted in para. 3(4) & para. 3(10) inserted by reg. 14(2)(c)(iii) & (iv) of S.I. 2002/3019 as from 6.10.03.

(5) ▶◀

Sub-para. (5) and (6) omitted by reg. 7(3)(b) of S.I. 1997/827 as from 7.4.97.

(6) ▶◀

(7) ▶◀

Para. 3(7) deleted by para. 7(d) of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

(8) Where the amount of any relevant benefits to which a relevant beneficiary is entitled is less than the sum which would, but for this sub-paragraph, have been the specified part, then the specified part shall be the amount of any relevant benefits to which the relevant beneficiary is entitled less 10p.

▶(9) In the case of a person to whom regulation 6(5) of the Income Support Regulations applies, no part of any relevant benefit shall be paid directly by the Secretary of State to a qualifying lender.◀

Para. 3(9) added by reg. 11(3) of S.I. 2001/488 as from 9.4.01.

▶(10) In sub-paragraph (1), the relevant benefits do not include in the case of state pension credit ▶but not in a case to which sub-paragraph 11 applies,◀ so much of any additional amount which is applicable in the claimant’s case under Schedule II to the State Pension Credit Regulations (housing costs) in respect of a period before the decision awarding state pension credit was made.◀

See note (a) above.
Words in sub-para. (10) inserted & sub-para. (11) inserted by reg. 5(5)(d)(ii) & (iii) of S.I. 2002/3197 as from 6.10.03.

▶(11) This sub-paragraph applies where the last day on which either the claimant or his partner were entitled to income support or to an income-based jobseeker’s allowance was no more than twelve weeks before—

- (a) except where paragraph (b) applies, the first day of entitlement to state pension credit; or
- (b) where the claim for state pension credit was treated as made on a day earlier than the day on which it was actually made (“the actual date”), the day which would have been the first day of entitlement to state pension credit had the claim been treated as made on the actual date.◀

Direct payment: more than one loan

4.—(1) This paragraph applies where the borrower is liable to pay mortgage interest in respect of two or more different loans.

▶(2) Subject to the following provisions of this paragraph, the Secretary of State shall pay to the qualifying lender or, if there is more than one qualifying lender, to each qualifying lender—

Para. 4(2) substituted by para. 8 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

- (a) a sum equal to the mortgage interest determined by reference to paragraph 12 of Schedule 3 to the Income Support Regulations ▶or, as the case may be ▶paragraph 9 of Schedule II to the State Pension Credit Regulations or◀, paragraph 11 of Schedule 2 to the Jobseeker’s Allowance Regulations◀ (standard rate) in respect of each loan made by that lender; ▶◀
- (b) any amount payable in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations (transitional protection) attributable to the particular loan; ▶◀
- (c) any additional amount attributable to a particular loan which may, under paragraph 3(5), have been taken into account in calculating the specified part.◀

Words inserted in para. 4(2)(a) by reg. 2(27)(d) of S.I. 1996/1460 as from 7.10.96.

Words inserted in para. 4(2)(a) by reg. 14(2)(d) of S.I. 2002/3019 as from 6.10.03.

Word deleted in para. 4(2)(a) & (b) by reg. 7(3)(c) of S.I. 1997/827 as from 7.4.97.

(3) If, by virtue of deductions made under either paragraph 3(2) or 3(3), the specified part is less than the amount payable by the borrower in respect of mortgage interest, then the sum payable under sub-paragraph (2)(a) shall be

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minus such proportion of the sum subtracted under those sub-paragraphs as is attributable to the particular loan.

(4) Paragraph 3(4) shall apply to reduce the amount payable to a qualifying lender mentioned in sub-paragraph (2) above as it applies to reduce the amount of any relevant benefits payable to a qualifying lender under paragraph 3.

(5) Where the specified part is the part referred to in paragraph 3(8), the Secretary of State shall pay the specified part directly to the qualifying lenders to whom mortgage interest is payable by the borrower in order of the priority of mortgages or (in Scotland) in accordance with the preference in ranking of heritable securities.

Para. 5 deleted by reg. 2(8)(b) of S.I. 1996/672 as from 4.4.96.

5. ▶◀**Time and manner of payments**

6. Payments to qualifying lenders under regulation 34A ▶or 34B◀ and this Schedule shall be made in arrears at intervals of 4 weeks.

Words inserted in para. 6 by reg. 5(5)(e) of S.I. 2002/3197 as from 6.10.03.

Fees payable by qualifying lenders

7. For the purposes of defraying the expenses of the Secretary of State in administering the making of payments under regulation 34A ▶or 34B◀ and this Schedule a qualifying lender shall pay to the Secretary of State a fee of ▶£0.78◀ in respect of each payment made under regulation 34A and this Schedule.

Amount in para. 7 substituted by reg. 3 of S.I. 2004/576 as from 1.4.04.

Qualifying lenders

8. The following bodies and persons shall be qualifying lenders—

- (a) the Housing Corporation;
- (b) Housing for Wales;
- (c) Scottish Homes;
- (d) the Development Board for Rural Wales; and
- (e) any body incorporated under the Companies Act 1985(a) whose main objects include the making of loans secured by a mortgage of or a charge over land or (in Scotland) by a heritable security.

Election not to be regarded as a qualifying lender

9.—(1) A body which, or a person who, would otherwise be a qualifying lender may elect not to be regarded as such for the purposes of these Regulations by giving notice of election under this paragraph to the Secretary of State in accordance with sub-paragraphs (2) and (3).

Sub-para. 9(2) substituted by reg. 14(2)(e) of S.I. 2002/3019 as from 6.10.03.

▶(2) Subject to sub-paragraph (4), the information referred to in heads (a), (b), (c) and (d) of sub-paragraph (1) shall be provided at the request of the Secretary of State when a claim for—

- (a) income support or income-based jobseeker's allowance is made and a sum in respect of mortgage interest is to be brought into account in determining the applicable amount; or
- (b) state pension credit is made and a sum in respect of housing costs is applicable in the claimant's case in accordance with regulation 6(6)(c) of the State Pension Credit Regulations.◀

(3) A body which, or a person who, becomes a qualifying lender during a financial year and who wishes to elect not to be regarded as such for the purposes of these Regulations shall give notice of election in writing within a period of six weeks from the date on which the person or body became a qualifying lender.

Words in para. 9(4) substituted by reg. 5(5)(f) of S.I. 2002/3197 as from 6.10.03.

(4) ▶Neither regulation 34A nor 34B shall◀ apply to a body which, or a person who, becomes a qualifying lender during a financial year for a period of six weeks

(a) 1985 c. 6

from the date on which the person or body became a qualifying lender unless, either before the start of that period or at any time during that period, the person or body notifies the Secretary of State in writing that this sub-paragraph should not apply.

(5) A body which, or a person who, has made an election under this paragraph may revoke that election by giving notice in writing to the Secretary of State before 1st February in any financial year and the revocation shall take effect on the 1st April following the giving of the notice.

(6) Where a notice under this paragraph is sent by post it shall be treated as having been given on the day it was posted.

Provision of information

10.—(1) A qualifying lender shall provide the Secretary of State with information relating to—

- (a) the mortgage interest payable by a borrower;
- (b) the amount of the loan;
- (c) the purpose for which the loan is made;
- (d) the amount outstanding on the loan on which the mortgage interest is payable;
- (e) any change in the amount of interest payable by the borrower; at the times specified in sub-paragraphs (2) and (3).

(2) ►Subject to paragraph (4),◀ the information referred to in heads (a), (b), (c) and (d) of sub-paragraph (1) shall be provided at the request of the Secretary of State when a claim for income support ►or income-based jobseeker’s allowance◀ is made and a sum in respect of mortgage interest is to be brought into account in determining the applicable amount.

(3) ►Subject to paragraph (4),◀ the information referred to in heads (d) and (e) of sub-paragraph (1) shall be provided at the request of the Secretary of State—

- (a) when a claim for income support ►, state pension credit◀ ►or income-based jobseeker’s allowance◀ ceases to be paid to a relevant beneficiary; and
- (b) once every 12 months notwithstanding that, in relation to head (d), the information may already have been provided during the period of 12 months preceding the date of the Secretary of State’s request.

►(4) Where a claimant or his partner is a person to whom either paragraph 1A of Schedule 3 to the Income Support (General) Regulations 1987 (housing costs) or paragraph 1A of Schedule 2 to the Jobseeker’s Allowance Regulations 1996 (housing costs) refers, the information to which sub-paragraphs (2) and (3)(b) refer shall be provided at the request of the Secretary of State on the anniversary of the date on which the housing costs in respect of mortgage interest were first brought into account in determining the applicable amount of the person concerned.◀

(a) Words inserted in para. 10(2) & (3) by reg. 5(2)(a) of S.I. 1997/2305 as from 22.10.97.

(b) Words inserted in para. 10(2) & (3)(a) by reg. 2(27)(e)(i) & (ii) of S.I. 1996/1460 as from 7.10.96.

See note (a) above. Words inserted in para. 10(3)(a) by reg. 14(2)(e)(ii) of S.I. 2002/3019 as from 6.10.03.

See note (b) above. Sub-para 10(4) inserted by reg. 5(2)(b) of S.I. 1997/2305 as from 22.10.97.

Recovery of sums wrongly paid

11.—(1) Where sums have been paid to a qualifying lender under regulation 34A which ought not to have been paid for one or both of the reasons mentioned in sub-paragraph (2) of this paragraph, the qualifying lender shall, at the request of the Secretary of State, repay the sum overpaid.

(2) The reasons referred to in sub-paragraph (1) of this paragraph are—

- (a) that—
 - (i) the rate at which the borrower pays mortgage interest has been reduced ►or the rate specified in paragraph 12 of Schedule 3 to the Income Support Regulations ►or, as the case may be, paragraph 11 of Schedule 2 to the Jobseeker’s Allowance Regulations◀ (standard rate) has been reduced◀ or the amount outstanding on the loan has reduced,

Words inserted in para. 11(2)(a)(i) by para. 9 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

Words inserted in para. 11(2)(a)(i) by reg. 2(27)(f) of S.I. 1996/1460 as from 7.10.96.

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and

- (ii) as a result of this reduction the applicable amount of the relevant beneficiary has also been reduced, but
 - (iii) no corresponding reduction was made to the specified part; or
- (b) subject to paragraph (3), that the relevant beneficiary has ceased to be entitled to any relevant benefits.

(3) A qualifying lender shall only repay sums which ought not to have been paid for the reason mentioned in sub-paragraph (2)(b) of this paragraph if the Secretary of State has requested that lender to repay the sums within a period of 4 weeks starting with the last day on which the relevant beneficiary was entitled to any relevant benefits.◀

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Sch. 9B inserted by reg. 2(b) of S.I. 2000/18 as from 31.1.01.

►SCHEDULE 9B

DEDUCTIONS FROM BENEFIT IN RESPECT OF CHILD SUPPORT MAINTENANCE AND PAYMENT TO PERSONS WITH CARE

Interpretation**1.** In this Schedule—

“the Act” means the Child Support Act 1991(a),

“beneficiary” means a person who has been awarded a specified benefit and includes each member of a joint-claim couple awarded joint-claim jobseeker’s allowance,

Words inserted in defn. of “maintenance” by reg. 3(a) of S.I. 2002/1950 as from the date specified in reg. 1(2) *ibid.* on page 1.5723.

“maintenance” means ►, except in paragraph 3, ◀ maintenance which a non-resident parent is liable to pay under the Act at a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1 to the Act, and includes such maintenance payable at a transitional rate in accordance with Regulations made under section 29(3)(a) of the Child Support, Pensions and Social Security Act 2000(b),

“specified benefit” means either a benefit, pension or allowance mentioned in section 5(2) of the Social Security Administration Act 1992(c) and which is prescribed for the purpose of paragraph 4(1)(b) or (c) of Schedule 1 to the Act or a war disablement pension or a war widow’s pension within the meaning of section 150(2) of the Social Security Contributions and Benefits Act 1992(d).

Deductions

2.—(1) Subject to paragraphs 5 and 6, the Secretary of State may deduct from a specified benefit awarded to a beneficiary, an amount equal to the amount of maintenance which is payable by the beneficiary (or in the case of income support ►, state pension credit◀ or income-based jobseeker’s allowance, payable either by the beneficiary or his partner) and pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the liability to pay maintenance.

Words inserted in paras. 2(1) & 3(1) by reg. 14(3) of S.I. 2002/3019 as from 6.10.03.

(2) A deduction may only be made from one of the specified benefits in any one week.

(3) No deduction may be made unless the amount of the relevant specified benefit is not less than the total of the amounts to be deducted under this Schedule plus 10 pence.

Arrears

3.—(1) Except where income support ►, state pension credit◀ or income-based jobseeker’s allowance is payable to the beneficiary or his partner, the Secretary of State may deduct the sum of £1 per week from a specified benefit which the beneficiary has been awarded and, subject to sub-paragraph (2), pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the beneficiary’s liability to pay arrears of maintenance.

(2) Deductions made under sub-paragraph (1) may be retained by the Secretary of State in the circumstances set out in regulation 8 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(e).

(a) 1991 c. 48 Schedule 1 Part I was substituted by the child support, Pensions and Social Security Act 2000 (c. 19) section 1(3) and Part I of Schedule 1.

(b) 2000 c. 19.

(c) 1992 c. 5; section 5(2) was amended by the Jobseekers Act 1995 (c. 18), Schedule 2 paragraph 39.

(d) 1992 c. 4.

(e) S.I. 1992/1816. Regulation 8 was substituted by regulation 2 of S.I. 1995/3261 and amended by the Child Support Collection and Enforcement and Miscellaneous Amendments Regulations 2000.

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►(3) In sub-paragraph (1) “maintenance” means child support maintenance as defined by section 3(6) of the Act—

- (a) before the amendment of the definition of such maintenance by section 1(2)(a) of the Child Support, Pensions and Social Security Act 2000(a);
- (b) after the amendment of the definition; or
- (c) both before and after the amendment of the definition,

Sub-para. (3) inserted in para. 3 by reg. 3(b) of S.I. 2002/1950 as from the date specified in reg. 1(2) *ibid.* on page 1.5723.

and includes maintenance payable at a transitional rate in accordance with regulations made under section 29(3)(a) of that Act.◄

Apportionment

4. Where maintenance is payable to more than one person with care, the amount deducted shall be apportioned between the persons with care in accordance with paragraphs 6, 7 and 8 of Schedule 1 to the Act.

Flat rate maintenance

5.—(1) This sub-paragraph applies where the beneficiary and his partner are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Act and either of them has been awarded income support ►, state pension credit◄ or income-based jobseeker’s allowance.

Words inserted in paras. 5(1) & 6(1) by reg. 14(3) of S.I. 2002/3019 as from 6.10.03.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5 may be deducted in respect of the sum of both partners’ liability to pay maintenance, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(b) and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance.

Flat rate maintenance (polygamous marriage)

6.—(1) This sub-paragraph applies where two or more members of a polygamous marriage are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Act and any member of the polygamous marriage has been awarded income support ►, state pension credit◄ or income-based jobseeker’s allowance.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5 may be deducted in respect of the sum of all the members’ liability to pay maintenance, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance.

(3) In this paragraph “polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy.

Notice

7. When the Secretary of State commences making deductions, he shall notify the beneficiary in writing of the amount and frequency of the deduction and the benefit from which the deduction is made and shall give further such notice when there is a change to any of the particulars specified in the notice.

(a) 2000 c. 19; section 21 was brought into force by S.I. 2000/2994 (c. 94) for the purpose of exercising powers to make regulations and Acts of Sederunt only.

(b) S.I. 2000/ .

General

8. A deduction made in accordance with this Schedule is a deduction by way of recovery for the purposes of regulation 40(3) of the Income Support (General) Regulations 1987(a) and regulation 103(3) of the Jobseeker's Allowance Regulations 1996(b).◀

(a) S.I. 1987/1967; relevant amending instruments are S.I. 1988/2022, 1998/563.
(b) S.I. 1996/207, to which there are amendments not relevant to these Regulations.