

The Fair Allowance Act

20xx

An Act to make provision for Fair Allowance.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: -

Part 1

Fair Allowance

Chapter 1: Entitlement and awards

Introductory

1. Fair allowance

- (1) A benefit known as Fair Allowance is payable in accordance with this Part.
- (2) Fair Allowance may, subject as follows, be awarded to an individual.
- (3) An award of Fair Allowance is, subject as follows, calculated by reference to –
 - (a) a standard allowance related to the individual's age.

2. Receipt

- (1) Fair Allowance shall be paid to an individual.

Entitlement

3. Entitlement

- (1) Fair Allowance shall be paid to an individual if the individual meets the basic conditions.

4. Basic conditions

- (1) For the purposes of section 3, a person meets the basic conditions who –
 - (a) is at least 16 years old,
 - (b) is in Great Britain,
 - (c) is not a person for whom Child Benefit is in payment.
- (2) Regulations may provide for exceptions to the requirement to meet any of the basic conditions.
- (3) For the basic condition in subsection (1)(b) regulations may –
 - (a) specify circumstances in which a person is to be treated as being or not being in Great Britain;
 - (b) specify circumstances in which temporary absence from Great Britain is disregarded.
- (4) Except to the extent that regulations provide otherwise, no amount in respect of Fair Allowance is payable in respect of a person for a period during which the person is undergoing imprisonment or detention in legal custody.

Awards

5. Basis of awards

- (1) Fair Allowance is payable from a prescribed date.
- (2) Regulations may make provision –
 - (a) for a prescribed date,
 - (b) for different prescribed dates for individuals of different ages.

6. Calculation of awards

- (1) The amount of an award of Fair Allowance is to be the standard allowance related to the individual's age.
- (2) No amount may be deducted in respect of earned income or unearned income.

Elements of an award

7. Standard allowance

- (1) The calculation of an award of Fair Allowance is to include an amount by way of a standard allowance for an individual.
- (2) Regulations are to specify the amount to be included under subsection (1).
- (3) Regulations may specify different amounts to be included under subsection (1) in relation to an individual's age.
- (4) The Secretary of State shall establish a Fair Allowance Commission which may report to the Secretary of State on all matters relating to the Fair Allowance.
- (5) The Secretary of State may make regulations for the establishment and operation of the Fair Allowance Commission.

Application of work-related requirements

8. Individuals subject to no work-related requirements

- (1) The Secretary of State may not impose any work-related requirement on any individual as a condition of receiving Fair Allowance.
- (2) In subsection (1), "work", in relation "any work-related requirement", shall include work that is either paid or unpaid.

Chapter 2: Supplementary and general

Supplementary and consequential

9. Power to make supplementary and consequential provision etc.

- (1) The appropriate authority may by regulations make such consequential, supplementary, incidental or transitional provision in relation to any provision.
- (2) The appropriate authority is the Secretary of State, subject to subsection (3)
- (3) The appropriate authority is the Welsh Ministers for –

- (a) provision which would be within the legislative competence of the National Assembly for Wales were it contained in an Act of the Assembly;
 - (b) provision which could be made by the Welsh Ministers under any other power conferred on them.
- (4) Regulations under this section may amend, repeal or revoke any primary or secondary legislation (whenever passed or made).

Fair Allowance and other benefits

10. Abolition and adjustment of benefits

- (1) No benefits are abolished.
- (2) Any power to make –
 - (a) regulations under this Part,
 - (b) regulations under the Social Security Administration Act 1992 relating to Fair Allowance, or
 - (c) regulations under the Social Security Act 1998 relating to Fair Allowance,may be exercised so as to make provision for Fair Allowance to be included in the means to be taken into account in the calculation of awards of other benefits.

Recovery of benefit payments

11. Recovery of Benefit Payments

- (1) The Secretary of State may recover any amount of the Fair Allowance paid in excess of entitlement.
- (2) An amount recoverable under this section is recoverable from—
 - (a) the person to whom it was paid, or
 - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) An amount paid in pursuance of a determination is not recoverable under this section unless the determination has been—
 - (a) reversed or varied on an appeal, or
 - (b) revised or superseded under section 9 or section 10 of the Social Security Act 1998, except where regulations otherwise provide.
- (4) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (5) An amount recoverable under this section may (without prejudice to any other means of recovery) be recovered—
 - (a) by deduction from earnings (in accordance with the Social Security Administration Act 1992, section 71ZD);
 - (b) through the courts etc. (Section 71ZE).
 - (c) by adjustment of benefit (Section 71ZF)

- (6) Recovering benefits by deduction from the Fair Allowance is not permitted.

Regulations

12. Pilot schemes

- (1) Any power to make –
- (a) regulations under this Part,
 - (b) regulations under the Social Security Administration Act 1992 relating to Fair Allowance, or
 - (c) regulations under the Social Security Act 1998 relating to Fair Allowance,
- may be exercised so as to make provision for piloting purposes.
- (2) In subsection (1), “piloting purposes”, in relation to any provision, means the purposes of testing —
- (a) the extent to which the provision is likely to make Fair Allowance simpler to understand,
 - (b) the extent to which the provision is likely to promote—
 - (i) people remaining in work, or
 - (ii) people obtaining or being able to obtain work (or more work or better-paid work), or
 - (c) the extent to which, and how, the provision is likely to affect the conduct of recipients of Fair Allowance or other people in any other way.
- (3) Regulations made by virtue of this section are in the remainder of this section referred to as a “pilot scheme”.
- (4) A pilot scheme may be limited in its application to—
- (a) one or more areas;
 - (b) persons selected by reference to their age.
- (5) A pilot scheme may not have effect for a period exceeding three years, but—
- (a) the Secretary of State may by order made by statutory instrument provide that the pilot scheme is to continue to have effect after the time when it would otherwise expire for a period not exceeding twelve months (and may make more than one such order);
 - (b) a pilot scheme may be replaced by a further pilot scheme making the same or similar provision.
- (6) A pilot scheme may include consequential or transitional provision in relation to its expiry.

13. Regulations: General

- (1) Regulations under this Part are to be made by the Secretary of State, unless otherwise provided.

- (2) A power to make regulations under this Part may not be exercised so as to make different provision for different cases or purposes except as provided in sections (12)(3) and (12)(4).
- (3) A power to make regulations under this Part may be exercised so as to make different provision in relation to the age of the person.
- (4) A power to make regulations under this Part may be exercised so as to make provision for Fair Allowance to be payable in respect of a person for a period during which the person is undergoing imprisonment or detention in legal custody.
- (5) Where regulations under this Part provide for an amount, the amount may not be zero.
- (6) Each power conferred by this part is without prejudice to the others.
- (7) Where regulations under this Part provide for an amount for the purposes of an award, the amount may be different in relation to the age of the person.
- (8) No regulation or regulations shall be made that will cause the amount of the net income of a household to be reduced below the amount of the net income of the household before the regulation or regulations had been made.

14. Regulations: procedure

- (1) Regulations under this Part are to be made by statutory instrument.
- (2) A statutory instrument containing regulations made by the Secretary of State under this Part is subject to the affirmative resolution procedure.
- (3) A statutory instrument containing regulations made by the Welsh Ministers under section 9 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

Final

15. Financial provision

- (1) There shall be paid out of money provided by Parliament—
 - (a) sums paid by the Secretary of State by way of Fair Allowance;
 - (b) any other expenditure incurred in consequence of this Act by a Minister of the Crown or the Commissioners for Her Majesty’s Revenue and Customs;
 - (c) any increase attributable to this Act in the sums payable under any other Act out of money so provided.
- (2) The Secretary of State shall report to Parliament on the net cost of Fair Allowance during the first full financial year of its operation.
- (3) ‘Net cost’ in section (14)(2) shall be understood to be the total of –
 - (a) the cost of Fair Allowance awards, and
 - (b) the administrative cost of Fair Allowance
 less the total of –

- (a) additional Income Tax and National Insurance Contribution payments in respect of the reductions in the Income Tax Personal Allowances and National Insurance Contribution Primary Earnings Threshold consequent on regulations made in relation to this Act,
- (b) additional Income Tax and National Insurance Contribution payments in respect of the increases in the rates of Income Tax and National Insurance Contributions consequent on regulations made in relation to this Act,
- (c) reductions in the cost of awards of other benefits consequent on their recalculation consequent on regulations made in relation to this Act.

Paragraphs will follow on extent, commencement, and short title.

Additional paragraphs will be required in relation to:

- electronic communications
- amendments to other Acts required to enable Fair Allowance to be taken into account when other benefits are calculated. A paragraph similar to paragraph to (13)(8) above will need to be included to ensure that no amendments to other Acts leave households worse off.
- the Scottish Parliament, the Northern Ireland Assembly, and Scottish and Northern Ireland ministers. The relevant parts of the Universal Credit Act on which this illustrative draft legislation is based contain the references to the Welsh Assembly and Welsh ministers to be found here. Further references to the Welsh Assembly and Welsh ministers might be required.

Issues not required to be included in this Act:

- Increases in Child Benefit can be dealt with in the usual way;
- Reductions in Income Tax Personal Allowances and the National Insurance Contribution Primary Earnings Threshold, and increases in Income Tax rates, can be dealt with in the usual way.