

Status: Point in time view as at 27/09/2005.

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SCHEDULES

SCHEDULE 1

Sections 11(5) and 79(5).

PERSONS DISREGARDED FOR PURPOSES OF DISCOUNT

Persons in detention

- 1 (1) A person shall be disregarded for the purposes of discount on a particular day if on the day—
- (a) he is detained in a prison, a hospital or any other place by virtue of an order of a court to which sub-paragraph (2) below applies;
 - (b) he is detained under paragraph 2 of Schedule 3 to the ^{M1}Immigration Act 1971 (deportation);
 - (c) he is detained under Part II or section 46, 47, 48 or 136 of the ^{M2}Mental Health Act 1983; or
 - (d) he is detained under [^{F1}Parts 5, 6 and 7 or sections 136 or 297 of the Mental Health (Care and Treatment)(Scotland) Act 2003 or sections 52D or 52M or the Criminal Procedure (Scotland) Act 1995;]
- (2) This sub-paragraph applies to the following courts—
- (a) a court in the United Kingdom; and
 - (b) a Standing Civilian Court established under the ^{M3}Armed Forces Act 1976.
- (3) If a person—
- (a) is temporarily discharged under section 28 of the ^{M4}Prison Act 1952, or temporarily released under rules under section 47(5) of that Act; or
 - (b) is temporarily discharged under section 27 of the ^{M5}Prisons (Scotland) Act 1989, or temporarily released under rules under section 39(6) of that Act,
- for the purposes of sub-paragraph (1) above he shall be treated as detained.
- (4) Sub-paragraph (1) above does not apply where the person—
- (a) is detained under regulations made under paragraph 8 of Schedule 4 to this Act;
 - (b) is detained under section 76 of the ^{M6}Magistrates' Courts Act 1980, or [^{F2}section 108 of the Powers of Criminal Courts (Sentencing) Act 2000], for default in payment of a fine; or
 - (c) is detained only under section 407 of the ^{M7}Criminal Procedure (Scotland) Act 1975.
- (5) In sub-paragraph (1) above “order” includes a sentence, direction, warrant or other means of giving effect to the decision of the court concerned.
- (6) The Secretary of State may by order provide that a person shall be disregarded for the purposes of discount on a particular day if—

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- (a) on the day he is imprisoned, detained or in custody under the ^{M8}Army Act 1955, the ^{M9}Air Force Act 1955 or the ^{M10}Naval Discipline Act 1957; and
- (b) such conditions as may be prescribed by the order are fulfilled.

Textual Amendments

- F1** Words in Sch. 1 para. 1(1)(d) substituted (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), Sch. 1 para. 22(2)(a)
- F2** Words in Sch. 1 para. 1(4)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 152

Marginal Citations

- M1** 1971 c. 77.
M2 1983 c. 20.
M3 1976 c. 52.
M4 1952 c. 52.
M5 1989 c. 45.
M6 1980 c. 43.
M7 1975 c. 21.
M8 1955 c. 18.
M9 1955 c. 19.
M10 1957 c. 53.

The severely mentally impaired

- 2 (1) A person shall be disregarded for the purposes of discount on a particular day if—
- (a) on the day he is severely mentally impaired;
 - (b) as regards any period which includes the day he is stated in a certificate of a registered medical practitioner to have been or to be likely to be severely mentally impaired; and
 - (c) as regards the day he fulfils such conditions as may be prescribed by order made by the Secretary of State.
- (2) For the purposes of this paragraph a person is severely mentally impaired if he has a severe impairment of intelligence and social functioning (however caused) which appears to be permanent.
- (3) The Secretary of State may by order substitute another definition for the definition in sub-paragraph (2) above as for the time being effective for the purposes of this paragraph.

Persons in respect of whom child benefit is payable

- 3 (1) A person shall be disregarded for the purposes of discount on a particular day if on the day he—
- (a) has attained the age of 18 years; but
 - (b) is a person in respect of whom another person is entitled to child benefit, or would be so entitled but for paragraph 1(c) of Schedule 9 to the ^{M11}Social Security Contributions and Benefits Act 1992.

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- (2) The Secretary of State may by order substitute another provision for sub-paragraph (1)(b) above as for the time being effective for the purposes of this paragraph.

Marginal Citations

M11 1992 c. 4.

Students etc.

- 4 (1) A person shall be disregarded for the purposes of discount on a particular day if—
- (a) on the day he is a student, student nurse, apprentice or youth training trainee; and
 - (b) such conditions as may be prescribed by order made by the Secretary of State are fulfilled.
- (2) In this paragraph “apprentice”, “student”, “student nurse” and “youth training trainee” have the meanings for the time being assigned to them by order made by the Secretary of State.
- 5 (1) An institution shall, on request, supply a certificate under this paragraph to any person who is following or, subject to sub-paragraph (3) below, has followed a course of education at that institution as a student or student nurse.
- (2) A certificate under this paragraph shall contain such information about the person to whom it refers as may be prescribed by order made by the Secretary of State.
- (3) An institution may refuse to comply with a request made more than one year after the person making it has ceased to follow a course of education at that institution.
- (4) In this paragraph—
- “institution” means any such educational establishment or other body as may be prescribed by order made by the Secretary of State; and
 - “student” and “student nurse” have the same meanings as in paragraph 4 above.

Hospital patients

- 6 (1) A person shall be disregarded for the purposes of discount on a particular day if on the day he is a patient who has his sole or main residence in a hospital.
- (2) In this paragraph “hospital” means—
- (a) a health service hospital within the meaning of the ^{M12}National Health Service Act 1977 or section 108(1) (interpretation) of the ^{M13}National Health Service (Scotland) Act 1978; and
 - (b) a military, air-force or naval unit or establishment at or in which medical or surgical treatment is provided for persons subject to military law, air-force law or the ^{M14}Naval Discipline Act 1957.

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- (3) The Secretary of State may by order substitute another definition for the definition in sub-paragraph (2) above as for the time being effective for the purposes of this paragraph.

Marginal Citations

- M12** 1977 c. 49.
M13 1978 c. 29.
M14 1957 c. 53.

Patients in homes in England and Wales

- 7 (1) A person shall be disregarded for the purposes of discount on a particular day if on the day—
- (a) he has his sole or main residence in a [^{F3}care home, independent hospital] or hostel in England and Wales; and
 - (b) he is receiving care or treatment (or both) in the home [^{F4}, hospital] or hostel.

[^{F5}(2) In this paragraph—

“care home” means—

- (a) a care home within the meaning of the Care Standards Act 2000; or
- (b) a building or part of a building in which residential accommodation is provided under section 21 of the ^{M15}National Assistance Act 1948;

“hostel” means anything which falls within any definition of hostel for the time being prescribed by order made by the Secretary of State under this sub-paragraph;

“independent hospital” has the same meaning as in the Care Standards Act 2000.]

- (3) The Secretary of State may by order substitute another definition for any definition of [^{F6}“care home” or “independent hospital”] for the time being effective for the purposes of this paragraph.

Textual Amendments

- F3** Words in Sch. 1 para. 7(1)(a) substituted (1.4.2002 for E.W.) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 20(a); S.I. 2001/4150, art. 3(3)(a) (subject to art. 4 of that S.I. and art. 4 of S.I. 2002/1493 by virtue of S.I. 2001/4150, art. 3(2) as amended by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(d) (subject to art. 3(4)-(10), Schs. 1-3)
- F4** Word in Sch. 1 para. 7(1)(b) inserted (1.4.2002 for E.W.) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 20(b); S.I. 2001/4150, art. 3(3)(a) (subject to art. 4 of that S.I. and art. 4 of S.I. 2002/1493 by virtue of S.I. 2001/4150, art. 3(2) as amended by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(d) (subject to art. 3(4)-(10), Schs. 1-3)
- F5** Sch. 1 para. 7(2) substituted (1.4.2002 for E.W.) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 20(c); S.I. 2001/4150, art. 3(3)(a) (subject to art. 4 of that S.I. and art. 4 of S.I. 2002/1493 by virtue of S.I. 2001/4150, art. 3(2) as amended by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(d) (subject to art. 3(4)-(10), Schs. 1-3)
- F6** Words in Sch. 1 para. 7(3) substituted (1.4.2002 for E.W.) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 20(d); S.I. 2001/4150, art. 3(3)(a) (subject to art. 4 of that S.I. and art. 4 of S.I. 2002/1493 by virtue of S.I.

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2001/4150, art. 3(2) as amended by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(d) (subject to art. 3(4)-(10), Schs. 1-3)

Marginal Citations

M15 1948 c. 29.

Patients in homes in Scotland

- 8 (1) A person shall be disregarded for the purposes of discount on a particular day if on the day—
- [^{F7}(a) either—
- (i) he has as his sole or main residence a private hospital in Scotland; or
 - (ii) a care home service provides, in Scotland, accommodation which is his sole or main residence; and
- (b) he is receiving care or treatment (or both) in the hospital or in the accommodation so provided.]
- (2) In this paragraph—
- [^{F8}“care home service” has the same meaning as in the Regulation of Care (Scotland) Act 2001 (asp 8); and]
- [^{F9}“hostel” means anything which falls within any definition of hostel for the time being prescribed by order made by the Secretary of State under this sub-paragraph;]
- [^{F10}“nursing home” means—
- (a) a nursing home within the meaning of section 10(2) of the ^{M16}Nursing Homes Registration (Scotland) Act 1938 in respect of which a person is registered; or
 - (b) any premises in respect of which an exemption has been granted under section 6 or 7 of that Act;]
- [^{F11}“private hospital” means an independent health care service as defined in section 329(1) of the Mental Health (Care and treatment)(Scotland) Act 2003]
- [^{F12}“residential care home” means—
- (a) a residential establishment provided and maintained by a local authority in respect of their functions under section 13B (provision of care and after-care) of the ^{M17}Social Work (Scotland) Act 1968; or
 - (b) a residential establishment to which Part IV of the said Act of 1968 applies; or
 - (c) residential accommodation provided and maintained by a local authority under section 7 (functions of local authorities) of the Mental Health (Scotland) Act 1984,
- where the sole or main function of the establishment or accommodation is to provide personal care or support, combined with board, to persons who are solely or mainly resident in the establishment or accommodation.]
- [^{F13}(3) In the definition of “residential care home” in sub-paragraph (2) above—
- “personal care” includes the provision of appropriate help with physical and social needs; and

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“support” means counselling or other help provided as part of a planned programme of care.]

- (4) The Secretary of State may by order substitute another definition for any definition of [^{F14}“nursing home”], “private hospital” or [^{F15}“care home service”] for the time being effective for the purposes of this paragraph.

Textual Amendments

- F7** Sch. 1 para. 8(1)(a)(b) substituted (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(a); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F8** In Sch. 1 para. 8(2) definition of "care home service" inserted (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(b)(ii); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F9** In Sch. 1 para. 8(2) definition of "hostel" repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(b)(i); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F10** In Sch. 1 para. 8(2) definition of "nursing home" repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(b)(i); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F11** Sch. 1 para. 8(2): definition of "private hospital" substituted (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), **Sch. 1 para. 22(2)(b)**
- F12** In Sch. 1 para. 8(2) definition of "residential care home" repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(b)(i); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F13** Sch. 1 para. 8(3) repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(c); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F14** Words in Sch. 1 para. 8(4) repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(d)(i); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F15** Words in Sch. 1 para. 8(4) substituted (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 18(d)(ii); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)

Marginal Citations

- M16** 1938 c. 73.
M17 1968 c. 49.

Care workers

- 9 (1) A person shall be disregarded for the purposes of discount on a particular day if—
- (a) on the day he is engaged in providing care or support (or both) to another person or other persons; and
 - (b) such conditions as may be prescribed are fulfilled.
- (2) Without prejudice to the generality of sub-paragraph (1)(b) above the conditions may—
- (a) require the care or support (or both) to be provided on behalf of a charity or a person fulfilling some other description;
 - (b) relate to the period for which the person is engaged in providing care or support (or both);
 - (c) require his income for a prescribed period (which contains the day concerned) not to exceed a prescribed amount;
 - (d) require his capital not to exceed a prescribed amount;
 - (e) require him to be resident in prescribed premises;
 - (f) require him not to exceed a prescribed age;

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- (g) require the other person or persons to fulfil a prescribed description (whether relating to age, disablement or otherwise).

Residents of certain dwellings

- 10 (1) A person shall be disregarded for the purposes of discount on a particular day if on the day he has his sole or main residence in a dwelling to which sub-paragraph (2) below applies.
- (2) This sub-paragraph applies to any dwelling if—
- (a) it is for the time being providing residential accommodation, whether as a hostel or night shelter or otherwise; and
 - (b) the accommodation is predominantly provided—
 - (i) otherwise than in separate and self-contained sets of premises;
 - (ii) for persons of no fixed abode and no settled way of life; and
 - (iii) under licences to occupy which do not constitute tenancies.

Persons of other descriptions

- 11 A person shall be disregarded for the purposes of discount on a particular day if—
- (a) on the day he falls within such description as may be prescribed; and
 - (b) such conditions as may be prescribed are fulfilled.

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