

SCHEDULE 9 **E+W+S**

Regulation 111(2)

CAPITAL TO BE DISREGARDED

1. The dwelling occupied as the home but, notwithstanding regulation 83 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.

[<sup>F1</sup>1A. Any payment in respect of any travel or other expenses incurred, or to be incurred, by the claimant in respect of that claimant's participation in [<sup>F2</sup>a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013] or the Mandatory Work Activity Scheme, but only for 52 weeks beginning with the date of receipt of the payment.]

**Textual Amendments**

- F1** Sch. 9 para. 1A inserted (5.8.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2011 \(S.I. 2011/1707\)](#), regs. 1, **4(10)(11)**
- F2** Words in Sch. 9 para. 1A substituted (12.2.2013) by [The Jobseeker's Allowance \(Schemes for Assisting Persons to Obtain Employment\) Regulations 2013 \(S.I. 2013/276\)](#), regs. 1, **15(b)**

2. Any premises acquired for occupation by the claimant which that claimant intends to occupy as the home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as the home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part by—

- (a) a partner or relative of a single claimant or any member of the family as the home where that person [<sup>F3</sup>has attained the qualifying age for state pension credit] or is incapacitated;
- (b) the former partner of a claimant as the home; but this provision is not to apply where the former partner is a person from whom the claimant is estranged or divorced or with whom the person formed a civil partnership that has been dissolved.

**Textual Amendments**

- F3** Words in Sch. 9 para. 4(a) substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **44(2)**

5. Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following the claimant's estrangement or divorce from, or dissolution of the claimant's civil partnership with, the claimant's former partner, that dwelling for a period of 26 weeks from the date on which the claimant ceased to occupy that dwelling or, where that dwelling is occupied as the home by the former partner who is [<sup>F4</sup>a lone parent or a person who has no partner and who is responsible for and a member of the same household as a young person,] for as long as it is so occupied.

**Status:** Point in time view as at 19/06/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)

### Textual Amendments

- F4** Words in Sch. 9 para. 5 substituted (31.10.2011) by [The Social Security \(Work-focused Interviews for Lone Parents and Partners\) \(Amendment\) Regulations 2011 \(S.I. 2011/2428\)](#), regs. 1, **5(8)**

**6.** Any premises where the claimant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which the claimant first took such steps, or such longer period as is reasonable in the circumstances to enable the claimant to dispose of those premises.

**7.** Any premises which the claimant intends to occupy as the home, and in respect of which that claimant is taking steps to obtain possession and has sought legal advice or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which the claimant first sought such advice or first commenced such proceedings whichever is earlier, or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of those premises.

**8.** Any premises which the claimant intends to occupy as the home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is reasonable in the circumstances to enable those repairs or alterations to be carried out and the claimant to commence occupation of the premises.

**9.** Any future interest in property of any kind, other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

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

- (2) The assets of any business owned in whole or in part by the claimant where that claimant—
- (a) is not engaged as self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as the claimant recovers or is able to become engaged, or re-engaged, in that business,

for a period of 26 weeks from the date on which the claim for an income-related allowance is made, or is treated as made, or, if it is unreasonable to expect the claimant to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable the claimant to become so engaged or re-engaged.

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

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

**11.—(1)** Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraph 8, 10 or 11 of Schedule 8 (other income to be disregarded);

**Status:** Point in time view as at 19/06/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)

- (b) an income-related allowance, an income-related benefit or an income-based jobseeker's allowance<sup>[F5]</sup>, universal credit, child tax credit or working tax credit;
- (c) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001,
- <sup>[F6]</sup>(d) bereavement support payment under section 30 of the Pensions Act 2014,]

but only for a period of 52 weeks from the date of the receipt of the arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances, amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the “relevant sum”) and is—

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999; and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) is to have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of an income-related allowance, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), “the award of an income-related allowance” means—

- (a) the award either of an income-related allowance, income support<sup>[F7]</sup>, universal credit] or of an income-based jobseeker's allowance in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received; and
  - (b) where that award is followed by one or more further awards which in each case may be either of an income-related allowance, income support<sup>[F7]</sup>, universal credit] or of an income-based jobseeker's allowance and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant—
    - (i) is the person who received the relevant sum;
    - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of that person's death; <sup>F8</sup> ...
    - (iii) in the case of a joint-claim jobseeker's allowance, is a joint-claim couple either member or both members of which received the relevant sum<sup>[F9]</sup>; or]
- <sup>[F9]</sup>(iv) in a case where universal credit is awarded to the claimant and another person as joint claimants, either the claimant or the other person, or both of them, received the relevant sum]

#### Textual Amendments

- F5** Words in Sch. 9 para. 11(1)(b) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **37(9)(a)**
- F6** Sch. 9 para. 11(1)(d) inserted (coming into force in accordance with art. 1-3 of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **31(5)(a)**
- F7** Words in Sch. 9 para. 11(3)(a)(b) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **37(9)(b)**

*Status: Point in time view as at 19/06/2017.*

*Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)*

- F8** Word in Sch. 9 para. 11(3)(b) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [37\(9\)\(c\)](#)
- F9** Sch. 9 para. 11(3)(b)(iv) and word inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), [37\(9\)\(c\)](#)

**12.** Any sum—

- (a) paid to the claimant in consequence of damage to, or loss of, the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to the home,

and which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to enable the claimant to effect the repairs, replacement or improvements.

**13.** Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 <sup>F10</sup> or section 338(1) of the Housing (Scotland) Act 1987 <sup>F11</sup> as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as is reasonable in the circumstances to complete the purchase.

**Textual Amendments**

- F10** [1985 c. 69.](#)
- F11** [1987 c. 26.](#)

**14.** Any personal possessions except those which had or have been acquired by the claimant with the intention of reducing that claimant's capital in order to secure entitlement to an employment and support allowance, a jobseeker's allowance or to income support or to increase the amount of those benefits.

**15.** The value of the right to receive any income under an annuity and the surrender value (if any) of such an annuity.

**16.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant or the claimant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

**17.—(1)** Any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

**(2)** But sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment [<sup>F12</sup>in consequence of that personal injury];
- (b) does not apply to any subsequent payment made to the claimant in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;

(d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purpose of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

#### Textual Amendments

**F12** Words in Sch. 9 para. 17(2)(a) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **19(a)**

**18.** The value of the right to receive any income under a life interest or from a life rent.

**19.** The value of the right to receive any income which is disregarded under paragraph 9 of Schedule 7 or paragraph 24 of Schedule 8 (earnings or other income to be disregarded).

**20.** The surrender value of any policy of life insurance.

**21.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

**22.—**(1) Any payment made by a local authority in accordance with—

(a) section 17, 23B, 23C or 24A of the Children Act 1989 <sup>F13</sup>;

(b) section 12 of the Social Work (Scotland) Act 1968 <sup>F14</sup>; or

<sup>F15</sup>(c) section 26A, 29 or 30 of the Children (Scotland) Act 1995 (local authorities' duty to provide continuing care and provision of advice and assistance for certain young persons).]

(2) Subject to paragraph (3), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 [<sup>F16</sup>or section 26A or 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children, duty to provide continuing care and provision of advice and assistance for certain young persons)] to a person ("A") which A passes on to the claimant.

(3) Sub-paragraph (2) applies only where A—

(a) was formerly in the claimant's care; and

<sup>F17</sup>(b) is aged 18 or over or, in the case of a payment or part of a payment made in accordance with section 26A of the Children (Scotland) Act 1995, aged 16 or over, and]

(c) continues to live with the claimant.

#### Textual Amendments

**F13** 1989 c. 41. Sections 23B, 23C and 24A were substituted by the [Children \(Leaving Care\) Act 2000 \(c. 35\)](#), sections 2 and 4.

**F14** 1968 c. 49.

**F15** Sch. 9 para. 22(1)(c) substituted (5.8.2016) by [The Children and Young People \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2016 \(S.I. 2016/732\)](#), arts. 1(1), **8(3)(a)**

**F16** Words in Sch. 9 para. 22(2) substituted (5.8.2016) by [The Children and Young People \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2016 \(S.I. 2016/732\)](#), arts. 1(1), **8(3)(b)**

**F17** Sch. 9 para. 22(3)(b) substituted (5.8.2016) by [The Children and Young People \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2016 \(S.I. 2016/732\)](#), arts. 1(1), **8(3)(c)**

**23.** Any social fund payment made pursuant to Part 8 of the Contributions and Benefits Act.

*Status: Point in time view as at 19/06/2017.*

*Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)*

[<sup>F18</sup>23A. Any local welfare provision.]

#### Textual Amendments

**F18** Sch. 9 para. 23A inserted (2.4.2013) by [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), regs. 1, **9(6)(a)**

**24.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 <sup>F19</sup> (mortgage interest payable under deduction of tax) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements in the home.

#### Textual Amendments

**F19** 1988 c. 1.

**25.** Any capital which under regulation 105 or 137 (capital treated as income or treatment of student loans) is to be treated as income.

**26.** Where a payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

**27.—(1)** Any payment made under [<sup>F20</sup>or by] the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), the Fund, the Eileen Trust[<sup>F21</sup>, MFET Limited], [<sup>F22</sup>the Independent Living Fund (2006)], the Skipton Fund[<sup>F23</sup>, the Caxton Foundation][<sup>F24</sup>, the Scottish Infected Blood Support Scheme][<sup>F25</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund] or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under [<sup>F20</sup>or by] any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom the person is not, or where that person has died was not, estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under [<sup>F20</sup>or by] any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under [F20 or by] any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom the person is not estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the date of the payment is a child, a young person or a full-time student who has not completed full-time education and had no parent or step-parent, to that person's guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under [F20 or by] any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of that person's death (the relevant date) had no partner or former partner from whom the person was not estranged or divorced or with whom the person had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of that person's family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent; or
  - (ii) where that person at the relevant date was a child, a young person or a full-time student who had not completed full-time education and had no parent or step-parent, to that person's guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust[F26, MFET Limited], the Skipton Fund[F27, the Caxton Foundation][F28, the Scottish Infected Blood Support Scheme][F29, the London Emergencies Trust, the We Love Manchester Emergency Fund] or the London Bombings Relief Charitable Fund.

#### Textual Amendments

- F20** Words in Sch. 9 para. 27(1)-(5) inserted (6.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(1), **12(5)(f)**
- F21** Words in Sch. 9 para. 27(1) inserted (6.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(1), **12(3)(g)**
- F22** Words in Sch. 9 para. 27(1) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **19(b)**
- F23** Words in Sch. 9 para. 27(1) inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **23(9)**

**Status:** Point in time view as at 19/06/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)

- F24** Words in Sch. 9 para. 27(1) inserted (3.4.2017) by The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (S.I. 2017/329), regs. 1, **8(3)(f)**
- F25** Words in Sch. 9 para. 27(1) inserted (19.6.2017) by The Social Security (Emergency Funds) (Amendment) Regulations 2017 (S.I. 2017/689), regs. 1, **7(3)(f)**
- F26** Words in Sch. 9 para. 27(7) inserted (6.4.2010) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(1), **12(3)(g)**
- F27** Words in Sch. 9 para. 27(7) inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **23(9)**
- F28** Words in Sch. 9 para. 27(7) inserted (3.4.2017) by The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (S.I. 2017/329), regs. 1, **8(3)(f)**
- F29** Words in Sch. 9 para. 27(7) inserted (19.6.2017) by The Social Security (Emergency Funds) (Amendment) Regulations 2017 (S.I. 2017/689), regs. 1, **7(3)(f)**

**28.** The value of the right to receive an occupational or personal pension.

**29.** The value of any funds held under a personal pension scheme.

**30.** The value of the right to receive any rent except where the claimant has a reversionary interest in the property in respect of which rent is due.

**31.** Any payment in kind made by a charity or under the Macfarlane Trust, Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust<sup>F30</sup>, MFET Limited<sup>F31</sup>, the Skipton Fund, the Caxton Foundation<sup>F32</sup>, the Scottish Infected Blood Support Scheme<sup>F33</sup> or the <sup>F33</sup>the Independent Living Fund (2006)].

#### Textual Amendments

- F30** Words in Sch. 9 para. 31 inserted (6.4.2010) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(1), **12(3)(g)**
- F31** Words in Sch. 9 para. 31 inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **23(8)**
- F32** Words in Sch. 9 para. 31 inserted (3.4.2017) by The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (S.I. 2017/329), regs. 1, **8(3)(f)**
- F33** Words in Sch. 9 para. 31 substituted (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/2428), regs. 1(2), **19(c)**

**32.** Any payment made pursuant to section 2 of the Employment and Training Act 1973<sup>F34</sup> or section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>F35</sup>, but only for the period of 52 weeks beginning on the date of receipt of the payment.

#### Textual Amendments

- F34** 1973 c. 50.
- F35** 1990 c. 35.

<sup>F36</sup>**32A.** Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, in complying with a requirement to undertake work-related activity but only for 52 weeks beginning with the date of receipt of the payment.]

#### Textual Amendments

**F36** Sch. 9 para. 32A inserted (1.6.2011) by [The Employment and Support Allowance \(Work-Related Activity\) Regulations 2011 \(S.I. 2011/1349\)](#), regs. 1, **20**

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

**34.** Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

**35.** Any payment [<sup>F37</sup>in consequence of a reduction] of council tax under section 13 [<sup>F38</sup>, section 13A] or, as the case may be, section 80 of the Local Government Finance Act 1992 <sup>F39</sup> (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

#### Textual Amendments

**F37** Words in Sch. 9 para. 35 substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **19(d)**

**F38** Words in Sch. 9 para. 35 inserted (2.4.2013) by [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), regs. 1, **9(6)(b)**

**F39** 1992 c. 14. Section 80 was amended by the [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#), [Schedule 13](#), paragraph 176(4).

**36.** Any grant made to the claimant in accordance with a scheme under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 <sup>F40</sup> (schemes for payments to assist local housing authorities and local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as the claimant's home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as the claimant's home,

for a period of 26 weeks from the date on which the claimant received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the claimant to commence occupation of those premises as the claimant's home.

#### Textual Amendments

**F40** 1988 c. 43.

**37.—(1)** Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 <sup>F41</sup> (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 <sup>F42</sup>;
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 <sup>F43</sup> (travelling expenses and health service supplies);

**Status:** Point in time view as at 19/06/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1); but only for a period of 52 weeks from the date of receipt of the payment or repayment.

#### Textual Amendments

- F41** S.I. 2003/2382, the relevant amending instruments are S.I. 2004/663, S.I. 2004/696, S.I. 2004/936, S.I. 2005/26, S.I. 2005/578, S.I. 2006/562 and S.I. 2006/675.
- F42** S.I. 2007/1104 (W. 116).
- F43** S.S.I. 2003/460, the relevant amending instruments are S.S.I. 2004/102, S.S.I. 2004/166, S.S.I. 2006/183 and S.S.I. 2007/259.

**38.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins) but only for a period of 52 weeks from the date of receipt of the payment.

[<sup>F44</sup>**38A.** Any payment made under Part 8A of the Social Security Contributions and Benefits Act 1992 (entitlement to health in pregnancy grant).]

#### Textual Amendments

- F44** Sch. 9 para. 38A inserted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/583), reg. 10(10)(a)

**39.** Any payment made either by the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of receipt of the payment.

**40.** Any arrears of supplementary pension which is disregarded under paragraph 49 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraphs 51 or 52 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

**41.** Any payment (other than a training allowance) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944<sup>F45</sup> to assist disabled persons to obtain or retain employment despite their disability.

#### Textual Amendments

- F45** 1944 c. 10.

**42.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958<sup>F46</sup> to homeworkers assisted under the Blind Homeworkers' Scheme.

#### Textual Amendments

- F46** 1958 c. 33.

- 43.**—(1) Any sum to which sub-paragraph (2) applies and—
- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 <sup>F47</sup> or by the Court of Protection;
  - (b) which can only be disposed of by order or direction of any such court; or
  - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
- (2) This sub-paragraph applies to a sum which is derived from—
- (a) an award of damages for a personal injury to that person; or
  - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**Textual Amendments**

**F47** [S.I. 1998/3122](#), the relevant amending instrument is [S.I. 2007/2204](#)

**44.** Any sum administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of the Ordinary Cause Rules, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**45.** Any payment to the claimant as holder of the Victoria Cross or George Cross.

**46.** In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

**47.**—(1) [<sup>F48</sup>Any payment of a sports award] for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable or any housing costs to the extent that they are met under regulation 67(1)(c) or 68(1)(d) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of the claimant's family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

**Textual Amendments**

**F48** Words in Sch. 9 para. 47(1) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **19(e)**

**48.** In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

**Status:** Point in time view as at 19/06/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)

**49.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

**50.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

- (a) the claimant;
- (b) the claimant's partner;
- (c) the claimant's deceased spouse or deceased civil partner; or
- (d) the claimant's partner's deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

**51.** In the case of a person to whom paragraph (5) of regulation 6 of the Income Support Regulations (persons not treated as in remunerative work) applies, the whole of the claimant's capital.

**52.—(1)** Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996 <sup>F49</sup>;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 <sup>F50</sup>;
  - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 <sup>F51</sup> and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992 <sup>F52, F53</sup>;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002 <sup>F54</sup>; or
  - (ii) regulations made under section 181 of that Act<sup>F55</sup>; or

<sup>F55</sup>(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.]

**(2)** Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance [<sup>F56</sup>or other payment] made pursuant to any provision specified in sub-paragraph (1).

#### Textual Amendments

- F49** 1996 c. 56. Section 518 was substituted by the [School Standards and Framework Act 1998 \(c. 31\), section 129](#).
- F50** 1980 c. 44.
- F51** Section 73ZA was inserted by the [Further and Higher Education \(Scotland\) Act 2005 \(asp. 6\), section 19](#).
- F52** 1992 c. 37.
- F53** Word in Sch. 9 para. 52(1)(a)(iii) omitted (31.10.2011) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\), regs. 1\(2\), 23\(16\)\(a\)](#)
- F54** 2002 c. 32.

- F55** Sch. 9 para. 52(1)(c) and word added (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **23(16)(b)**
- F56** Words in Sch. 9 para. 52(2) inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **23(16)(c)**

**53.**—(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of a claimant's family who is—

- (a) a diagnosed person;
  - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (c) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (d) a member of the diagnosed person's family (other than that person's partner) or a person who was a member of the diagnosed person's family (other than that person's partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to—
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph will apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph will apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
  - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph will apply for the period beginning on the date on which the trust payment is made and ending—
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person—
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made, or of any payment out of the estate of a person to whom a trust payment has been made, which is made to a claimant or a member of a claimant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than that person's partner) or a person who was a member of the diagnosed person's family (other than that person's partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph will apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;

*Status: Point in time view as at 19/06/2017.*

*Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)*

- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph will apply for the period beginning on the date on which that payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph will apply for the period beginning on the date on which that payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 20,

whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of the diagnosed person's family; or
- (c) acting in the place of the diagnosed person's parents,

at the date of the diagnosed person's death will include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after that person's death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

**54.** The amount of a payment, other than a [<sup>F57</sup>war disablement pension, war widow's pension or war widower's pension], to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or deceased civil partner or the claimant's partner's deceased spouse or deceased civil partner—

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.

#### **Textual Amendments**

**F57** Words in Sch. 9 para. 54 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **11(4)**

**55.**—(1) Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the claimant or the claimant's partner relating to a service which is provided to develop or sustain the capacity of the claimant or the claimant's partner to live independently in the claimant's or the claimant's partner's accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.

56. Any payment [<sup>F58</sup>made as a direct payment under Part 1 of the Care Act 2014 (care and support) or] made under <sup>F59</sup>... regulations made under section 57 of the Health and Social Care Act 2001 <sup>F60</sup> or [<sup>F61</sup>as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013][<sup>F62</sup>, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)].

**Textual Amendments**

- F58** Words in Sch. 9 para. 56 inserted (1.4.2015) by [The Care Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Order 2015 \(S.I. 2015/643\)](#), art. 1(2), **Sch. para. 29(4)** (with art. 4)
- F59** Words in Sch. 9 para. 56 omitted (6.4.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **10(10)(b)**
- F60** 2001 c. 15.
- F61** Words in Sch. 9 para. 56 substituted (1.4.2014) by [The Social Care \(Self-directed Support\) \(Scotland\) Act 2013 \(Consequential Modifications and Savings\) Order 2014 \(S.I. 2014/513\)](#), art. 1(2), **Sch. para. 14(b)** (with art. 3)
- F62** Words in Sch. 9 para. 56 inserted (6.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(1), **12(7)**

57. Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 <sup>F63</sup>.

**Textual Amendments**

- F63** 2002 c. 38.

58. Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 <sup>F64</sup> (special guardianship support services).

**Textual Amendments**

- F64** 1989 c. 41. Section 14F was inserted by the [Adoption and Children Act 2002 \(c. 38\)](#), **section 115(1)**.

[<sup>F65</sup>59. Any direct payments within the meaning of section 49 of the Children and Families Act 2014 made to a claimant.]

**Textual Amendments**

- F65** Sch. 9 para. 59 inserted (E.W.) (1.9.2014) by [The Special Educational Needs \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/2103\)](#), arts. 1, **27(2)**

[<sup>F66</sup>60. Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017 (rate of bereavement support payment), but only for a period of 52 weeks from the date of receipt of the payment.]

**Status:** Point in time view as at 19/06/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9. (See end of Document for details)

---

#### **Textual Amendments**

**F66** Sch. 9 para. 60 inserted (coming into force in accordance with art. 1-3 of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **31(5)(b)**

**Status:**

Point in time view as at 19/06/2017.

**Changes to legislation:**

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, SCHEDULE 9.