

SCHEDULE 4

Regulation 31(11) and 41(2)

Capital disregards

PART 1

Capital to be disregarded

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

2. Any premises which the applicant intends to occupy as the applicant's home, and in respect of which the applicant 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 earliest of the date on which the applicant first sought the advice or the date on which the applicant first commenced the proceedings, or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of those premises.

3. Any premises which the applicant intends to occupy as the applicant's home to which essential repairs or alterations are required in order to render them fit for occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

4. Any premises occupied in whole or in part—

- (a) by a person who is a relative of the applicant or of any partner of the applicant as that person's home where the person has attained the qualifying age for state pension credit or is incapacitated; or
- (b) by a former partner of the applicant as that person's home, but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom the applicant had formed a civil partnership that has been dissolved.

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

6.—(1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the applicant's home following estrangement or divorce from the applicant's former partner or the dissolution of a civil partnership with the applicant's former partner, that dwelling for a period of 26 weeks from the date on which the applicant ceased to occupy it or, where the dwelling is occupied as a home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph “dwelling” includes any garage, garden and outbuildings pertaining to the home formerly occupied by the applicant and any premises not so occupied which it is impracticable or unreasonable to sell separately, and in particular any croft land on which the dwelling is situated.

7. Any premises where the applicant is taking reasonable steps to dispose of the whole of the applicant's interest in those premises, for a period of 26 weeks from the date on which the applicant first took those steps, or any longer period as is reasonable in the circumstances to enable the applicant to dispose of the interest in the premises.

8. All personal possessions.

9. The assets of any business owned in whole or in part by the applicant and for the purposes of which the applicant is engaged as a self-employed earner or, if the applicant has ceased to be

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engaged as a self-employed earner, for a period that is reasonable in the circumstances to allow for disposal of those assets.

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

for a period of 26 weeks from the date on which the application for council tax reduction is made, or treated as made, or, if it is unreasonable to expect the applicant to become engaged or re-engaged in that business within that period, for a longer period that is reasonable in the circumstances to enable the applicant to become engaged or re-engaged as a self-employed earner in that business.

11. The surrender value of any policy of life insurance by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life.

- 12.** The value of any contract under which—
- (a) the applicant makes one or more payments to another person (“the provider”);
 - (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on the applicant's death; and
 - (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on the applicant's death.

13. Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

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

by the Japanese during the Second World War, an amount equal to that payment.

14.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or any partner of the applicant who is—

- (a) a diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
- (c) a parent of a diagnosed person, a person acting in place of a diagnosed person's parents or a person who was acting in place of a diagnosed person's parents 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), sub-paragraph (1) applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies; or
- (b) a person referred to in sub-paragraph (1)(c), that paragraph (1) applies for the period beginning on the date on which the trust payment is made and ending 2 years after that date.

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

- (a) a diagnosed person;
- (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
- (c) a parent of a diagnosed person, a person acting in place of a diagnosed person's parents or a person who was acting in place of a diagnosed person's parents at the date of the diagnosed person's death.

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

- (a) a person referred to in sub-paragraph (3)(a) or (b), sub-paragraph (3) applies for the period beginning on the date on which the payment is made and ending on the date on which that person dies; or
- (b) a person referred to in sub-paragraph (3)(c), sub-paragraph (3) applies for the period beginning on the date on which the payment is made and ending 2 years after that date.

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

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

at the date of the diagnosed person's death includes a person who would have been a diagnosed person's partner or a person acting in place of a diagnosed person's parents but for the diagnosed person residing in a care home or an independent hospital.

(6) In this paragraph—

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

“trust payment” means a payment under 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.

15. The amount of any payment, other than a war disablement pension, a war widow's pension or a war widower's pension to compensate for the fact that during the Second World War the applicant, the applicant's partner, the applicant's deceased spouse or civil partner or the applicant's partner's deceased spouse or civil partner—

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

16.—(1) Any payment made under or by—

- (a) the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund; or
- (b) the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering, or who suffered, from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of that person's partner or former partner from whom the applicant is not, or where that person has died was not, estranged or divorced or with whom the applicant 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.

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

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, where—

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

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

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, where—

- (a) that person at the date of the person's death 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 who was or had been a member of the person's household; and
- (b) the payment is made either—
 - (i) to the person's parent or step-parent; or
 - (ii) where the person at the relevant date was a child or a student who had not completed full-time education and had no parent or step-parent, to any person standing in place of the applicant's parent,

but only for a period of two years from the person's death.

(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 or the Independent Living Fund (2006).

(7) In this paragraph “qualifying person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.

(8) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

17.—(1) Subject to sub-paragraph (2), an amount equal to the amount of any payment made in consequence of any personal injury to the applicant or to any partner of the applicant.

(2) Where the whole or part of the payment is administered—

- (a) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules;

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- (b) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court; or
- (c) in accordance with the terms of a trust established for the benefit of the applicant or the applicant's partner,

the whole of the amount administered.

18. Any amount specified in paragraph 19, 20, 21 or 25 for a period of one year beginning with the date of receipt.

19. Any amount paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as the applicant's home or to the applicant's personal possessions.

20. Any amount paid to the applicant or deposited in the applicant's name for the sole purpose of—

- (a) purchasing premises which the applicant intends to occupy as the applicant's home; or
- (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as the applicant's home.

21.—(1) Subject to paragraph 22 any amount paid—

- (a) by way of arrears of benefit;
- (b) by way of compensation for the late payment of benefit;
- (c) in lieu of the payment of benefit; or
- (d) to rectify, or compensate for, an official error,

being an amount to which that paragraph does not apply.

(2) In sub-paragraph (1) “benefit” means—

- (a) attendance allowance under section 64 of the 1992 Act ^{M1};
- (b) child tax credit;
- (c) council tax benefit;
- (d) disability living allowance;

[^{F1}(da) armed forces independence payment;]

- (e) personal independence payment;
- (f) housing benefit;
- (g) income-related employment and support allowance;
- (h) income support;
- (i) income-based jobseeker's allowance;
- (j) state pension credit;
- (k) working tax credit;
- (l) an increase of a disablement pension under section 104 of the 1992 Act (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the 1992 Act (increase for exceptionally severe disablement);
- (m) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension, war widow's pension or war widower's pension; or
- (n) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 ^{M2}.

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Textual Amendments

- F1** Sch. 4 para. 21(2)(da) inserted (11.6.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 3\) Regulations 2013 \(S.S.I. 2013/142\)](#), regs. 1, **12(9)**

Marginal Citations

- M1** Section 64 was amended by section 66 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#).
M2 S.I. 2001/1167, to which there are amendments not relevant to these Regulations.

22.—(1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a benefit specified in paragraph 21(2) and has been received by the applicant in full on or after the day on which the applicant became entitled to council tax reduction under these Regulations or the Council Tax Reduction Regulations.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—

- (a) paragraph 7(2) of Schedule 10 to the Income Support Regulations;
- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996 ^{M3};
- (c) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002 ^{M4}; or
- (d) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations,

where the award in respect of which the payments last fell to be disregarded under those Regulations terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) has effect until expiry of the period of entitlement to council tax reduction.

(4) In this paragraph—

“period of entitlement to council tax reduction” means—

- (a) the period of entitlement to council tax reduction under these Regulations during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where the period of entitlement to council tax reduction is followed by one or more further periods of entitlement to council tax reduction under these Regulations which, or each of which, begins immediately after the previous period of entitlement to council tax reduction ends, such further periods of entitlement to council tax reduction until the expiry of the last period of entitlement to council tax reduction provided that, for such further periods of entitlement to council tax reduction, the applicant—
 - (i) is the person who received the relevant sum;
 - (ii) is the partner of that person; or
 - (iii) was the partner of that person at the date of the applicant's death;

“the relevant date” means—

- (a) in the case of an existing period of entitlement to council tax reduction under these Regulations or the Council Tax Reduction Regulations, 6th October 2003; and
- (b) in any other case, the date on which the application for council tax reduction under these Regulations or the Council Tax Reduction Regulations was made; and

“the relevant sum” means the payment referred to in sub-paragraph (1) or the total amount referred to in sub-paragraph (2).

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Marginal Citations

M3 S.I. 1996/207.

M4 S.I. 2002/1792 as relevantly amended by S.I. 2003/2274 and 2008/1554 and 3157.

23. Where a capital asset is held in a currency other than sterling, any banking charge or commission payable in converting that capital into sterling.

24. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

25. Any arrears of supplementary pension which are disregarded under paragraph 3 of Schedule 3 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 4 or 5 of that Schedule.

26. The dwelling, together with any garage, garden and outbuildings, normally occupied by the applicant as the applicant's home, including any premises not so occupied which it is impracticable or unreasonable to sell separately, and in particular any croft land on which the dwelling is situated but, notwithstanding regulation 21 (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.

27.—(1) Subject to sub-paragraph (2), where the applicant is entitled to alternative maximum council tax reduction, the whole of the applicant's capital.

(2) Sub-paragraph (1) does not apply where in addition to satisfying the conditions in regulation 14(3) and (6) the applicant also satisfies the conditions in regulation 14(4) and (5) (conditions of entitlement to council tax reduction).

28. Any payment made under Part 8A of the 1992 Act (entitlement to health in pregnancy grant).

29. Any payment made under section 12B of the Social Work (Scotland) Act 1968 ^{M5} (direct payments in respect of community care services) or sections 12A to 12D of the National Health Service Act 2006 ^{M6} (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 ^{M7} (direct payments).

Marginal Citations

M5 1968 c.49. Section 12B was inserted by section 4 of the [Community Care \(Direct Payments\) Act 1996 \(c.30\)](#) and amended by section 70 of the [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#), [section 7](#) of, and paragraph 1 of schedule 2 to, the [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#) and section 63 of the [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#).

M6 2006 c.41. Section 12A to 12D were inserted by section 11 of the [Health Act 2009 \(c. 21\)](#). Section 12B was amended by paragraph 11 of Schedule 4 to the [Health and Social Care Act 2012 \(c.7\)](#).

M7 2001 c.15. Section 57 was amended, in relation to England, by section 146 of the [Health and Social Care Act 2008 \(c.14\)](#) and, in relation to Wales, by section 16 of the [Social Care Charges \(Wales\) Measure 2010 \(nawn 2\)](#).

30. Any payment in consequence of a reduction of council tax under section 13 or section 80 of the Act ^{M8} (reduction of liability for council tax) but only for a period of 52 weeks from the date of receipt of the payment.

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Marginal Citations

M8 Section 13 was amended by paragraph 42 of Schedule 7 to the [Local Government Act 2003 \(c.26\)](#). Section 80 was amended by paragraph 176 of Schedule 13 to the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#).

PART 2

Capital not to be treated as income under regulation 27(2)

31. The value of the right to receive any income under a life interest or from a life rent.
32. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
33. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
34. Where property is held under a trust, other than—
 - (a) a charitable trust within the meaning of the Charities Act 2011 ^{M9}; or
 - (b) a trust set up with any payment to which paragraph 16 of this Schedule applies,and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or any partner of the applicant, or both, that property.

Marginal Citations

M9 [2011 c.25](#).

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