

SCHEDULE 4

Capital to be disregarded

PART 5

Payments

19. A payment made within the past 52 weeks under Part 8 of the 1992 Act (the social fund).

20.—(1) A payment made within the past 52 weeks by or on behalf of a local authority—

- (a) under section 17, 23B, 23C or 24A of the Children Act 1989(1), section 12 of the Social Work (Scotland) Act 1968(2), section 22, 26A, 29 or 30 of the Children (Scotland) Act 1995(3) or section 37, 38, 109, 110, 114 or 115 of the Social Services and Well-being (Wales) Act 2014(4), or
- (b) under any other enactment in order to meet a person’s welfare needs related to old age or disability, other than living expenses.

(2) In sub-paragraph (1) “living expenses” has the meaning in regulation 57(2)(b).

21.—(1) A payment received within the past 52 weeks by way of arrears of, or compensation for late payment of—

- (a) universal credit,
- (b) a benefit abolished by section 33 of the 2012 Act,
- (c) a social security benefit which is not included as unearned income under regulation 57(1)(a) or 57(1)(b).

(2) In sub-paragraph (1)(c) a “social security benefit” means a benefit under any enactment relating to social security in any part of the United Kingdom.

(3) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1), relating to one social security benefit, amounts to £5,000 or more (“the relevant sum”) and is—

- (a) paid in order to rectify, or compensate for—
 - (i) an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(5),

(1) 1989 c.41. Section 17 was amended by paragraph 108 of schedule 2 of the Social Security (Consequential Provisions) Act 1992 (c.6), section 11(6) of the Adoption and Children Act 2002 (c.38), paragraph 6 of schedule 3 of the 2007 Act, paragraph 1 of schedule 1 and paragraph 1 of schedule 4 of the Children and Young Persons Act 2008 (c.23), paragraph 1 of schedule 2 of the 2012 Act and S.I. 2016/413. Sections 23B and 23C were inserted by section 2 of the Children (Leaving Care) Act 2000 (c.35) and amended by section 21 and paragraph 1 of schedule 4 of the Children and Young Persons Act 2008 (c.23) and S.I. 2016/413. Section 24A was inserted by section 4 of the Children (Leaving Care) Act 2000 and amended by section 116 and paragraph 61 of schedule 3 of the Adoption and Children Act 2002 (c.38) and S.I. 2016/413.

(2) 1968 c.49. Section 12 was amended by section 66 and paragraph 10 of schedule 9 of the National Health Service and Community Care Act 1990, paragraph 15 of schedule 4 of the Children (Scotland) Act 1995 (c.36), section 120 of the Immigration and Asylum Act 1999 (c.33) and section 3 of the Community Care and Health (Scotland) Act 2002 (asp 5).

(3) 1995 c.36. Section 22 was amended by paragraph 6 of schedule 1 of the Tax Credits Act 1999 (c.10), paragraph 50 of schedule 3 of the Tax Credits Act 2002 (c.21), paragraph 14 of schedule 3 of the 2007 Act and S.I. 2013/137. Section 26A was inserted by section 67 of the Children and Young People (Scotland) Act 2014 (asp 8) (“the 2014 Act”). Section 29 was amended by section 73 of the Regulation of Care (Scotland) Act 2001 (asp 8) and section 66 and 67 of the 2014 Act. Section 30 was amended by section 66 of the 2014 Act.

(4) 2014 anaw.4. Section 37 was amended by S.I. 2016/413.

(5) S.I. 1999/991, to which there are amendments not relevant to these Regulations.

Status: This is the original version (as it was originally made).

- (ii) an error on a point of law made by an officer, person or body described in sub-paragraph (a) or (b) of the definition of “official error” in regulation 1(3) of those Regulations, or
 - (iii) any error made by a member of the Scottish Administration involved in the administration of social security benefits to which no person outside the Scottish Government or the Department for Work and Pensions materially contributed, and is
- (b) received by the applicant in full on or after 14th October 2001,
- sub-paragraph (1) has effect in relation to the 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 period of entitlement to council tax reduction, for the remainder of that period if it is a longer period.
- (4) For the purpose of sub-paragraph (3), “the period of entitlement to council tax reduction” means—
- (a) the period of entitlement to council tax reduction in which the relevant sum is first received (or the first part of the relevant sum where it is paid in more than one instalment), and
 - (b) where that period of entitlement is followed by one or more periods of entitlement which, or each of which, begins immediately after the end of the previous period, such further period provided that for that further period the applicant—
 - (i) is the person who received the relevant sum, or
 - (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of the partner’s death.
- 22.** A payment to a person by virtue of being a holder of the Victoria Cross or George Cross.
- 23.** A payment made within the past 52 weeks of 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)(**6**).
- 24.** Any assistance under the 2018 Act falling within the following descriptions that was given with the past 52 weeks—
- (a) young carer grants paid by virtue of Regulations under section 28(**7**),
 - (b) early years assistance given by virtue of Regulations under section 32(**8**),
 - (c) carer’s allowance supplement given in accordance with section 81.
- 25.** Any assistance under the 2018 Act falling within the following descriptions—
- (a) winter heating assistance given by virtue of Regulations under section 30(**9**),
 - (b) funeral expense assistance given by virtue of Regulations under section 34(**10**).
- 26.** Any crisis payment made for the purpose of meeting an immediate short term need or a payment made for the purpose of meeting a need for community care—
- (a) from a welfare fund,
 - (b) by a local authority in exercise of the power at section 20 of the Local Government in Scotland Act 2003 (local authority’s power to advance well-being)(**11**) and using funds provided by the Scottish Ministers,

(6) S.I. 2017/410.

(7) See S.S.I. 2019/324, to which there are amendments not relevant to these Regulations.

(8) See S.S.I. 2018/370, S.S.I. 2019/110, S.S.I. 2019/157 and S.S.I. 2021/170.

(9) See S.S.I. 2020/352.

(10) See S.S.I. 2019/292, to which there are amendments not relevant to these Regulations.

(11) 2003 asp 1.

- (c) by a local authority in exercise of the power in section 1 of the Localism Act 2011 (local authority's general power of competence)(12) and using funds provided by the Secretary of State, and in this sub-paragraph local authority means a local authority within the meaning of section 8 of that Act, or
- (d) by, or on behalf of, the Welsh Ministers in exercise of the power in section 60 of the Government of Wales Act 2006 (promotion etc. of well-being)(13).

27. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest)(14) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

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

29.—(1) Any payment or repayment made—

- (a) under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies)(15),
- (b) under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies)(16), and
- (c) under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies)(17),

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 Scottish Ministers, the Secretary of State for Health 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.

30. Any payment made to those persons entitled to receive benefits as determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988(18) 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.

31.—(1) Any payment made by the Scottish Ministers or the Secretary of State 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 the receipt of the payment.

(2) “Relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece.

(12) 2011 c.20.

(13) 2006 c.32.

(14) 1988 c.1. Section 369 was amended by section 58 of the Finance Act 1993 (c.34), section 81 of the Finance Act 1994 (c.9), paragraph 6 of schedule 18 of the Finance Act 1996 (c.8), paragraph 4 of schedule 4 of the Finance Act 1999 (c.16), section 83 of the Finance Act 2000 (c.17) and paragraph 33 of schedule 1 of the Corporation Tax Act 2010 (c.4).

(15) S.S.I. 2003/460. Regulation 3 was amended by S.S.I. 2004/102. Regulation 5 was amended by S.S.I. 2011/55. Regulation 11 was amended by S.S.I. 2004/166, S.S.I. 2006/142, S.S.I. 2006/183, S.S.I. 2008/27 and S.S.I. 2011/55.

(16) S.I. 2003/2382. Regulation 5 was amended by S.I. 2004/663, S.I. 2004/936, S.I. 2006/562, S.I. 2008/1697, S.I. 2009/411, S.I. 2013/475, S.I. 2014/597, S.I. 2015/570, S.I. 2015/643, S.I. 2015/1776 and S.I. 2016/1045. Regulation 6 was amended by S.I. 2006/562 and S.I. 2006/675. Regulation 12 was amended by S.I. 2004/696, S.I. 2006/562, S.I. 2013/475, S.I. 2015/470 and S.I. 2019/248.

(17) S.I. 2007/1104. Regulation 5 was amended by S.I. 2008/1879, S.I. 2008/2568, S.I. 2009/709, S.I. 2016/211 and S.I. 2017/340. Regulation 11 was amended by S.I. 2009/1824.

(18) 1988 c.7. Section 13 was substituted subject to saving specified in S.I. 2005/2279 by section 185 of Social Care (Community Health and Standards) Act 2003 (c.43) and amended by section 27 of the Scotland Act 2016 (c.11).

Status: This is the original version (as it was originally made).

32. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958⁽¹⁹⁾ to homeworkers assisted under the Blind Homeworkers' Scheme.

33. Any sum of capital acquired by a person who is receiving, or has received, assistance whilst participating in a programme, arrangement or scheme described in sub-paragraphs (a) to (c) for the purpose of establishing or carrying on the commercial activity in respect of which the assistance is or was received, but only for a period of 52 weeks from the date on which the sum was acquired—

- (a) an employment zone programme,
- (b) a programme provided or other arrangements pursuant to section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in relation to training for employment, etc.)⁽²⁰⁾ or section 2 of the 1973 Act (functions of the Secretary of State)⁽²¹⁾, or
- (c) the scheme provided pursuant to arrangements made by the Secretary of State under section 17A of the Jobseekers Act (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.)⁽²²⁾ known as the Employment, Skills and Enterprise Scheme.

34.—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) Regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980⁽²³⁾,
 - (ii) directions made under section 73ZA of the Education (Scotland) Act 1980⁽²⁴⁾ and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992⁽²⁵⁾, or
 - (iii) Regulations made under section 518 of the Education Act 1996⁽²⁶⁾, or
- (b) corresponding to an education maintenance allowance made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training)⁽²⁷⁾, or
 - (ii) Regulations made under section 181 of that Act.

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

- (a) Regulations made under section 49 of the Education (Scotland) Act 1980,

⁽¹⁹⁾ 1958 c.33. Section 3 was amended by schedule 3 of the Local Authority Social Services Act 1970 (c.42), paragraph 6 of schedule 23 of the Local Government Act 1972 (c.70), schedule 2 and paragraph 134 of schedule 27 and schedule 30 of the Local Government (Scotland) Act 1973 (c.65), paragraph 2 of schedule 15 of the National Health Service (Scotland) Act 1978 (c.29), section 102 of the Local Government Act 1985 (c.51), paragraph 49 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39) and S.I. 2016/413.

⁽²⁰⁾ 1990 c.35. Section 2 was relevantly amended by section 47 of, and paragraph 1 of schedule 10 of, the Trade Union Reform and Employment Rights Act 1993 (c.19).

⁽²¹⁾ Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and amended by Part 1 of schedule 7 of the Employment Act 1989 (c.38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c.19).

⁽²²⁾ Section 17A was repealed by paragraph 1 of schedule 14(4) of the 2012 Act subject to savings provisions in article 7 of S.I. 2013/983.

⁽²³⁾ 1980 c.44. Section 49 was amended by paragraph 8(9) of schedule 10 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and section 5 of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 (asp 15). Section 73(f) was amended by section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

⁽²⁴⁾ Section 73ZA was inserted by section 19(1) of the Further and Higher Education (Scotland) Act 2005 (asp 6) and amended by paragraph 1 of schedule 1 of the Post-Education (Scotland) Act 2013 (asp 12).

⁽²⁵⁾ 1992 c.37.

⁽²⁶⁾ 1996 c.56. Section 518 was substituted by section 129 of the School Standards and Framework Act 1998 (c.31) and amended by S.I. 2010/1158.

⁽²⁷⁾ 2002 c.32. Section 14 was amended by section 59 of the Children Act 2004 (c.31), paragraph 23 of schedule 14 of the Education Act 2005 (c.18), section 15 of the Education Act 2011 (c.21) and S.I. 2010/1158. Section 181 was amended by S.I. 2010/1158.

- (b) 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, or
 - (c) Regulations made under section 518 of the Education Act 1996, 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 made pursuant to any provision specified in sub-paragraph (1).
- 35.** Any payment made to the applicant under Regulations made under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002**(28)**.
- 36.** Any payment made to the applicant under Regulations made under section 14F of the Children Act 1989 (special guardianship support services)**(29)**.
- 37.** Any payment made under or by the Thalidomide Trust.
- 38.** Any payment or interest on a payment made under, or in connection with the Windrush Compensation Scheme administered by the Home Office**(30)**.
- 39.** Any payment made pursuant to section 2 of the Enterprise and New Towns (Scotland) Act 1990 or section 2 of the 1973 Act, but only for the period of 52 weeks beginning on the date of receipt of the payment.
- 40.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001**(31)** or Part 5 of the 2018 Act.
- 41.** Any ex gratia payment made at the discretion of the Scottish Ministers from the Advance Payment Scheme which the Scottish Ministers set up in respect of cases of historical child abuse in care.
- 42.** Any redress payment made under Part 4 of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021**(32)**.

(28) 2002 c.38. Section 3 was amended by S.I. 2016/413. Section 4 was amended by paragraph 105 of schedule 5 of the Health and Social Care Act 2012 (c.7), and S.I. 2010/1158.

(29) 1989 c.41. Section 14F was inserted by section 115(1) of the Adoption and Children Act 2002 (c.38) and amended by S.I. 2016/413.

(30) See www.gov.uk/windrush-compensation and Parliamentary Debates (Hansard), House of Commons, April 23 2018, col. 621-622.

(31) S.I. 2001/1167, to which there are amendments not relevant to these Regulations.

(32) 2021 asp 15.