

SCHEDULE II

HOUSING COSTS

Circumstances in which a person is to be treated as occupying a dwelling as his home

4.—(1) Subject to the following provisions of this paragraph, a person shall be treated as occupying as his home the dwelling normally occupied as his home by himself or, if he has a partner, by himself and his partner, and he shall not be treated as occupying any other dwelling as his home.

(2) In determining whether a dwelling is the dwelling normally occupied as the claimant's home for the purposes of sub-paragraph (1) regard shall be had to any other dwelling occupied by the claimant or by him and his partner whether or not that other dwelling is in Great Britain.

(3) Subject to sub-paragraph (4), where a claimant who has no partner is a full-time student or is on a training course and is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling which he occupies for the purpose of attending his course of study or his training course or, as the case may be, the dwelling which he occupies when not attending his course, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make payments.

(4) A full-time student shall not be treated as occupying a dwelling as his home for any week of absence from it, other than an absence occasioned by the need to enter hospital for treatment, outside the period of study, if the main purpose of his occupation during the period of study would be to facilitate attendance on his course.

(5) Where a claimant has been required to move into temporary accommodation by reason of essential repairs being carried out to the dwelling normally occupied as his home and he is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling normally occupied or the temporary accommodation, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make those payments.

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, he shall be treated as occupying both dwellings as his home only—

- (a) where he has left and remains absent from the former dwelling occupied as the home through fear of violence in that dwelling or of violence by a close relative or former partner and it is reasonable that housing costs should be met in respect of both his former dwelling and his present dwelling occupied as the home; or
- (b) in the case of partners, where one partner is a full-time student or is on a training course and it is unavoidable that he or they should occupy two separate dwellings and reasonable that housing costs should be met in respect of both dwellings; or
- (c) in the case where a person has moved into a new dwelling occupied as the home, except where sub-paragraph (5) applies, for a period not exceeding four benefit weeks [^{F1}from the first day of the benefit week where the move takes place on that day, but if it does not, from the first day of the next following benefit week] if his liability to make payments in respect of two dwellings is unavoidable.

(7) Where—

- (a) a person has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in; and
- (b) he had claimed state pension credit before moving in and either that claim has not yet been determined or it has been determined but—
 - (i) an amount has not been included under this Schedule; or

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- (ii) the claim has been refused and a further claim has been made within four weeks of the date on which the claimant moved into the new dwelling occupied as the home; and
- (c) the delay in moving into the dwelling in respect of which there was liability to make payments before moving in was reasonable and—
 - (i) that delay was necessary in order to adapt the dwelling to meet the disablement needs of the claimant, his partner or a person under the age of [F20] for whom either the claimant or his partner is responsible; or
 - (ii) the move was delayed pending [F3]local welfare provision or] the outcome of an application under Part VIII of the 1992 Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling; or
 - (iii) the person became liable to make payments in respect of the dwelling while he was a patient or was in a care home [F4]or an independent hospital],

he shall be treated as occupying the dwelling as his home for any period not exceeding four weeks immediately prior to the date on which he moved into the dwelling and in respect of which he was liable to make payments.

[F5(8) This sub-paragraph applies to a person who enters a care home or an independent hospital—

- (a) for the purpose of ascertaining whether that care home or independent hospital suits his needs, and
- (b) with the intention of returning to the dwelling which he normally occupies as his home should, in the event that, the care home or independent hospital prove not to suit his needs,

and while in the care home or independent hospital, the part of the dwelling which he normally occupies as his home is not let, or as the case may be, sub-let to another person.]

(9) A person to whom sub-paragraph (8) applies shall be treated as occupying the dwelling he normally occupies as his home during any period (commencing with the day he enters the [F6]care home or independent hospital) not exceeding 13 weeks in which the person is resident in the [F6]care home or independent hospital], but only in so far as the total absence from the dwelling does not exceed 52 weeks.

(10) A person, other than a person to whom sub-paragraph (11) applies, shall be treated as occupying a dwelling as his home throughout any period of absence not exceeding 13 weeks, if, and only if—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(11) This sub-paragraph applies to a person whose absence from the dwelling he normally occupies as his home is temporary and—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) while the part of the dwelling which is normally occupied by him has not been let or, as the case may be, sub-let; and
- (c) he is—

[F7(i) detained in custody on remand pending trial or, as a condition of bail, required to reside—

- (aa) in a dwelling, other than the dwelling he occupies as his home; or

- (bb) in premises approved under [^{F8}section 13 of the Offender Management Act 2007] ,
- or, detained pending sentence upon conviction; or]
- (ii) resident in a hospital or similar institution as a patient; or
- (iii) undergoing or, as the case may be, his partner or a person who has not attained the age of [^{F9}20] and who is dependent on him or his partner is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than in a care home [^{F10}or an independent hospital]; or
- (iv) following, in the United Kingdom or elsewhere, a training course; or
- (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere; or
- (vi) undertaking the care of a person under the age of [^{F11}20] whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment, or
- (vii) a person who is, whether in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than a care home [^{F12}or an independent hospital]; or
- (viii) a full-time student to whom sub-paragraph (3) or (6)(b) does not apply; or
- (ix) a person, other than a person to whom sub-paragraph (8) applies, who is receiving care provided in a care home [^{F13}or an independent hospital]; or
- (x) a person to whom sub-paragraph (6)(a) does not apply and who has left the dwelling he occupies as his home through fear of violence in that dwelling, or by a person who was formerly his partner or is a close relative; and
- (d) the period of his absence is unlikely to exceed a period of 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (12) A person to whom sub-paragraph (11) applies is to be treated as occupying the dwelling he normally occupies as his home during any period of absence not exceeding 52 weeks beginning with the first day of that absence.
- (13) In this paragraph—
- (a) “medically approved” means certified by a medical practitioner;
- (b) “training course” means such a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, [^{F14}Skills Development Scotland,] Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

Textual Amendments

- F1** Words in Sch. II para. 4(6)(c) inserted (8.1.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2006 \(S.I. 2006/3274\)](#), reg. 1, **4** (with reg. 4(2)(3))
- F2** Word in Sch. II para. 4(7)(c)(i) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), reg. 1(2)(a), **6(4)(c)**
- F3** Words in Sch. II para. 4(7)(c)(ii) inserted (2.4.2013) by [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), reg. 1, **6(3)(a)**
- F4** Words in Sch. II para. 4(7)(c)(iii) inserted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 5 para. 5(a)(i)**

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- F5** Sch. II para. 4(8) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 5 para. 5(a)(ii)**
- F6** Words in Sch. II para. 4(9) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 5 para. 5(a)(iii)**
- F7** Sch. II para. 4(11)(c)(i) substituted (4.4.2005) by The Social Security (Housing Benefit, Council Tax Benefit, State Pension Credit and Miscellaneous Amendments) Regulations 2004 (S.I. 2004/2327), regs. 1(1)(c), **7(5)(a)**
- F8** Words in Sch. II para. 4(11)(c)(i) (bb) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **5(4)(a)**
- F9** Word in Sch. II para. 4(11)(c)(iii) substituted (10.4.2006) by The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **6(4)(d)**
- F10** Words in Sch. II para. 4(11)(c)(iii) inserted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 5 para. 5(a)(iv)**
- F11** Word in Sch. II para. 4(11)(c)(vi) substituted (10.4.2006) by The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **6(4)(e)**
- F12** Words in Sch. II para. 4(11)(c)(vii) inserted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 5 para. 5(a)(iv)**
- F13** Words in Sch. II para. 4(11)(c)(ix) inserted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 5 para. 5(a)(iv)**
- F14** Words in Sch. II para. 4(13)(b) inserted (6.4.2009) by The Social Security (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/583), regs. 1(2), **5(4)(a)**

Changes to legislation:

There are currently no known outstanding effects for the The State Pension Credit Regulations 2002, Paragraph 4.