

SCHEDULE V

INCOME FROM CAPITAL

PART I

Capital disregarded for the purpose of calculating income

1. Any premises acquired for occupation by the claimant which he intends to occupy as his 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.

[^{F1}1A. The dwelling occupied by the claimant as his home but only one home shall be disregarded under this paragraph.]

Textual Amendments

F1 Sch. V para. 1A added (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, 2(12)(a)

2. Any premises which the claimant intends to occupy as his home, and in respect of which he 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 he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

3. Any premises which the claimant intends to occupy as his 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 necessary to enable those repairs or alterations to be carried out.

4. Any premises occupied in whole or in part—

- (a) by a partner or close relative of a single claimant as his home where that person is either aged 60 or over or incapacitated;
- (b) by the former partner of the claimant as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced.

5. 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.

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

(2) In this paragraph—

- (a) “dwelling” includes any garage, garden and outbuildings, which were formerly occupied by the claimant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;
- (b) “lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child; and

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- (c) “child” means a person treated as a child for the purposes of Part IX of the 1992 Act ^{M1}.

Marginal Citations

M1 See section 142(1) of the 1992 Act.

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

8. All personal possessions.

9. The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.

[^{F2}9A. The assets of any business owned in whole or in part by the claimant if—

- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
- (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business.]

^{F3} ...

Textual Amendments

F2 Sch. V para. 9A inserted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **23(o)(i)**

F3 Words in Sch. V para. 9A omitted (6.10.2003) by virtue of [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **2(12)(b)**

10. The surrender value of any policy of life insurance.

11. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—

- (a) the claimant 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 claimant on his death; and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the claimant on his death.

12. 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 [^{F4}internment] of—

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

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

Textual Amendments

F4 Word in Sch. V para. 12 substituted (6.10.2003) by The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002 (S.I. 2002/3197), reg. 1(1)(b), Sch. para. 12(a)

13.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a claimant’s partner [^{F5}who is]—

- (a) ^{F6} ... a diagnosed person;
- (b) [^{F7}a diagnosed person’s partner or] was a diagnosed person’s partner at the time of the diagnosed person’s death;
- (c) ^{F8} ... a parent of a diagnosed person, a person acting in place of the diagnosed person’s parents or a person who was so acting at the date of the diagnosed person’s death.

(2) Where [^{F9}a trust payment is made to]—

- (a) [^{F10}a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph] shall apply for the period beginning on the date on which the trust is made and ending on the date on which [^{F10}that person] dies;
- (b) [^{F11}a person referred to in sub-paragraph (1)(c), that sub-paragraph] shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date.

(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 claimant’s partner [^{F12}who is]—

- (a) ^{F13} ... the diagnosed person;
- (b) [^{F14}a diagnosed person’s partner or] was a diagnosed person’s partner at the date of the diagnosed person’s death; or
- (c) ^{F15} ... a parent of a diagnosed person, a person acting in place of the diagnosed person’s parents or a person who was so acting at the date of the diagnosed person’s death.

(4) Where [^{F16}a payment referred to in sub-paragraph (3) is made to]—

- (a) [^{F17}a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph] shall apply for the period beginning on the date on which the payment is made and ending on the date on which [^{F17}that person] dies;
- (b) [^{F18}a person referred to in sub-paragraph (3)(c), that sub-paragraph] shall apply for the period beginning on the date on which the payment is made and ending two years after that date.

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

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

at the date of the diagnosed person’s death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person being in a care home.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant [^{F19}Creutzfeldt]-Jakob disease;

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“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 [F19]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.

Textual Amendments

- F5** Words in Sch. V para. 13(1) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(i)**
- F6** Word in Sch. V para. 13(1)(a) omitted (6.10.2003) by virtue of The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(ii)**
- F7** Words in Sch. V para. 13(1)(b) inserted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(iii)**
- F8** Word in Sch. V para. 13(1)(c) omitted (6.10.2003) by virtue of The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(iv)**
- F9** Words in Sch. V para. 13(2) inserted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(v)**
- F10** Words in Sch. V para. 13(2)(a) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(vi)**
- F11** Words in Sch. V para. 13(2)(b) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(vii)**
- F12** Words in Sch. V para. 13(3) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(viii)**
- F13** Word in Sch. V para. 13(3)(a) omitted (6.10.2003) by virtue of The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(ix)**
- F14** Words in Sch. V para. 13(3)(b) inserted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(x)**
- F15** Word in Sch. V para. 13(3)(c) omitted (6.10.2003) by virtue of The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(xi)**
- F16** Words in Sch. V para. 13(4) inserted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(xii)**
- F17** Words in Sch. V para. 13(4)(a) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(xiii)**
- F18** Words in Sch. V para. 13(4)(b) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(xiv)**
- F19** Word in Sch. V para. 13(6) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(c)(xv)**

14. The amount of any payment, other than a war disablement pension or a war widow’s or widower’s pension, to compensate for the fact that the claimant, the claimant’s partner, the claimant’s deceased spouse or the claimant’s partner’s deceased spouse—

- (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.

15.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), the Fund, the Eileen Trust or the Independent Living Funds.

(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 any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced.

(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, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers 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 any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced, 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 his full-time education and has no parent or step-parent, to any person standing in the place of his parent,

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 any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, nor any child who was or had been a member of his household; 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 or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place his parent,

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 shall be construed as including a reference to the Fund and the Eileen Trust.

(8) In this paragraph—

“child” means any person treated as a child for the purposes of Part IX of the Contributions and Benefits Act ^{M2} (child benefit);

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for undertaking or attending it;

“qualifying course” means a qualifying course as defined for the purposes of Parts II and IV of the Jobseeker's Allowance Regulations;

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“sandwich course” has the meaning given in regulation 5(2) of the Education (Student Support) Regulations 2001 ^{M3}, regulation 5(2) of the Education (Student Loans) (Scotland) Regulations 2000 ^{M4} or regulation 5(2) of the Education (Student Support) Regulations (Northern Ireland) 2000 ^{M5}, as the case may be;

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973 ^{M6} or is training as a teacher ^{F20} ...

Textual Amendments

F20 Words in Sch. 5 para. 15(8) omitted (6.10.2003) by virtue of [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), reg. 1(1)(b), **Sch. para. 12(b)**

Marginal Citations

M2 See section 142 of the [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#).

M3 [S.I.2000/951](#).

M4 [S.S.I.2000/200](#).

M5 [S.R.2000/213](#).

M6 1973 c. 50; section 2 was amended by section 25(1) of the [Employment Act 1988 \(c. 19\)](#), by Part I of Schedule 7 to the [Employment Act 1989 \(c. 38\)](#) and by section 47(1) of the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).

16.—^{F21}(1) An amount equal to the amount of any payment made in consequence of any personal injury to the claimant or, if the claimant has a partner, to the partner.

^{F22}(2) Where the whole or part of the payment is administered—

- (a) by the High Court under the provisions of Order 80 of the Rules of the Supreme Court 1965, the county court under Order 10 of the County Court Rules 1981, or the Court of Protection;
- (b) in accordance with an order made under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or

(c) in accordance with the terms of a trust established for the benefit of the claimant or his partner,
the whole of the amount so administered.]

Textual Amendments

- F21** Sch. V para. 16(1): Sch. 5 para. 16 renumbered as Sch. 5 para. 16(1) (6.10.2003) by The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(b), **23(o)(ii)**
- F22** Sch. V para. 16(2) inserted (6.10.2003) by The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(b), **23(o)(ii)**

17. Any amount specified in paragraphs 18 to 20—

- (a) in a case where there is an assessed income period, until the end of that period or until the expiration of one year from the date of payment, whichever is the later; or
- (b) in any other case, for a period of one year beginning with the date of receipt.

18. Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the claimant as his home and to his personal possessions.

19. So much of any amounts paid to the claimant or deposited in the claimant’s name for the sole purpose of—

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

20.—(1) Any amount paid—

- (a) by way of arrears of benefit;
 - (b) by way of compensation for the late payment of benefit; or
 - (c) in lieu of the payment of benefit.
- [^{F23}(d) any payment made by a local authority (including in England a county council), or by the National Assembly for Wales, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.]

(2) In paragraph (1), “benefit” means—

- (a) attendance allowance under section 64 of the Contributions and Benefits Act;
- (b) disability living allowance;
- (c) income support;
- (d) income-based jobseeker’s allowance;
- (e) housing benefit;
- (f) state pension credit;
- ^{F24}(g)
- [^{F25}(h) an increase of a disablement pension under section 104 of the Contributions and Benefits Act (increase where constant attendance needed), and any further increase of such a pension under section 105 of that Act (increase for exceptionally severe disablement);]

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- (i) any amount included on account of the claimant’s exceptionally severe disablement [^{F26}or need for constant attendance,] in a war disablement pension or a war widow’s or widower’s pension.
- ^{F27}(j) council tax benefit;
- (k) social fund payments;
- (l) child benefit;
- ^{F28}(m)
- (n) child tax credit under the Tax Credits Act 2002.]

Textual Amendments	
F23	Sch. V para. 20(1)(d) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274) , regs. 1, 2(12)(d)
F24	Sch. V para. 20(2)(g) omitted (6.10.2003) by virtue of The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274) , regs. 1, 2(12)(e)(i)
F25	Sch. V para. 20(2)(h) substituted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274) , regs. 1, 2(12)(e)(ii)
F26	Words in Sch. V para. 20(2)(i) inserted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274) , regs. 1, 2(12)(e)(iii)
F27	Sch. V para 20(2)(j)-(n) added (6.10.2003) by The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019) , regs. 1(2)(b), 23(o)(iii)(bb)
F28	Sch. V para. 20(2)(m) omitted (6.10.2003) by virtue of The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274) , regs. 1, 2(12)(e)(iv)

^{F29}**20A.**—(1) Subject to sub-paragraph (3), any payment of £5,000 or more to which paragraph 20(1)(a), (b) or (c) applies, which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and has been received by the claimant in full on or after the day on which he became entitled to benefit under these Regulations.

- (2) Subject to sub-paragraph (3), the total amount of any payment disregarded under—
 - (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
 - (b) paragraph 12(2) of Schedule 8 to the Jobseeker’s Allowance Regulations 1996;
 - (c) paragraph 8(2) of Schedule 5 or paragraph 21A of Schedule 5ZA to the Housing Benefit (General) Regulations 1987; or
 - (d) paragraph 8(2) of Schedule 5 or paragraph 21A of Schedule 5ZA to the Council Tax Benefit (General) Regulations 1992,

where the award during which the disregard last applied in respect of the relevant sum either 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) shall have effect until the award comes to an end.

- (4) In this paragraph—
 - “the award”, except in sub-paragraph (2), means—
 - (a) the award of State Pension Credit under these Regulations during which the relevant sum or, where it is received in more than one instalment, the first instalment of that sum is received; or

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- (b) where that award is followed immediately by one or more further awards which begins immediately after the previous award ends, such further awards until the end of the last award, provided that, for such further awards, the claimant—
 - (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 his death;

“official error”—

- (a) where the error relates to housing benefit or council tax benefit, has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001;

and

- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;

“the relevant date” means the date on which the claimant became entitled to benefit under the Act;

“relevant benefit” means any benefit specified in paragraph 20(2); and

“the relevant sum” means the total payment referred to in sub-paragraph (1) or, as the case may be, the total amount referred to in sub-paragraph (2).]

Textual Amendments

F29 Sch. V para. 20A substituted (6.10.2003) by [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **2(12)(f)**

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

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

23. The value of a right to receive income from a under a retirement annuity contract.

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