

SCHEDULE 6

Regulation 44(2)

Capital to be disregarded

PART 1

Capital to be disregarded generally

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.

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 person who is a relative of the claimant or of his partner as his home [^{F1}where that person has attained the qualifying age for state pension credit or is 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 or with whom he had formed a civil partnership that has been dissolved.

Textual Amendments

F1 Words in Sch. 6 para. 4(a) substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **31(2)**

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. 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 or the dissolution of a civil partnership with 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.

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.

Status: Point in time view as at 02/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SCHEDULE 6. (See end of Document for details)

- 10.** 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,

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

- 11.** The surrender value of any policy of life insurance.

12. 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.

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 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, an amount equal to that payment.

14.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a claimant's partner 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;
- (c) 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 a trust payment is made to—

- (a) 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 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 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 who is—

- (a) the diagnosed person;

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- (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 the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.
- (4) Where a payment such as referred to in sub-paragraph (3) is made to—
- (a) 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 that person dies;
 - (b) 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 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 his 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.

15. The amount of any payment, other than a [^{F2}war pension], to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or civil partner or the claimant'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,

during the Second World War.

Textual Amendments

F2 Words in Sch. 6 para. 15 substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(10)(a)**

16.—(1) Any payment made under [^{F3}or by] —

- (a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust [^{F4}, MFET Limited], the Skipton Fund [^{F5}, the Caxton Foundation] or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or
- (b) the Independent Living [^{F6}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 [^{F3}or by] any of

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the Trusts 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 or with whom he 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.

(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 [F³ 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 [F³ or by] any of the Trusts, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he 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 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 [F³ or by] any of the Trusts, 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 or with whom he had formed a civil partnership that had not been dissolved, 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 of 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.

Textual Amendments

F3 Words in Sch. 6 para. 16(1)-(5) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(3)(b), **9(5)(c)**

F4 Words in Sch. 6 para. 16(1)(a) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(3)(b), **9(3)(d)**

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- F5** Words in Sch. 6 para. 16(1)(a) inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **20(8)**
- F6** Words in Sch. 6 para. 16(1)(b) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **7(5)(b)**

17.—(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.

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

- [^{F7}(a) 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;]
- (b) in accordance with an order under Rule 36.14 of the Ordinary Cause Rules 1993 ^{F8} 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

- F7** Sch. 6 para. 17(2)(a) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by Social Security (Miscellaneous Amendments) (No.4) Regulations 2006 (S.I. 2006/2378), **reg. 16(4)**
- F8** First Schedule to the Sheriff Courts (Scotland) Act 1907 (c. 51) as substituted in respect of causes commenced on or after 1 January 1994 by S.I. 1993/1956; the relevant amending Instrument is S.I. 1996/2167.

18. Any amount specified in paragraphs 19, 20^{F9}, 21 or 26B] for a period of one year beginning with the date of receipt.

Textual Amendments

- F9** Words in Sch. 6 para. 18 substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **6(10)(b)**

19. 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.

20. 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.

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;

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- (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
 - (e) by a local authority (including, in relation to England, a county council), or by the ^{F10}Welsh Ministers], 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 sub-paragraph (1), “benefit” means—
- (a) attendance allowance under section 64 of the Act;
 - (b) disability living allowance;
 - (c) income support;
 - (d) income-based jobseeker's allowance;
 - (e) state pension credit;
 - (f) housing benefit;
 - (g) council tax benefit;
 - (h) child tax credit;
 - (i) an increase of a disablement pension under section 104 of the Act (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
 - (j) any amount included on account of the claimant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension.
 - ^{F11}(k) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001; ^{F12}...
 - (l) working tax credit.]^{F13} or
 - (m) income-related employment and support allowance.]

Textual Amendments

- F10** Words in Sch. 6 para. 21(1)(e) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(10)(c)**
- F11** Sch. 6 para. 21(2)(k)(l) inserted by [SI 2005/2502 reg. 2\(17\) \(as amended\) \(3.4.2006\)](#) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 27(17)** (with [regs. 2, 3, Sch. 3, Sch. 4](#))
- F12** Word in Sch. 6 para. 21(2)(k) omitted (27.10.2008) by virtue of [Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **41(a)(i)**
- F13** Sch. 6 para. 21(2)(m) and word added (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **41(a)(ii)**

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 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 or the Housing Benefit Regulations 2006.

- (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 ^{F14};
 - (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations ^{F15};

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(c) paragraph 9(2) of [^{F16}Schedule 6] to the Housing Benefit Regulations 2006;
(d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002 ^{F17},
[^{F18}(e) 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 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 benefit 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 that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such 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 Decisions and Appeals Regulations ^{F19};
- (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 ^{F20};

“the relevant date” means—

- (a) in the case of an existing award of benefit under these Regulations or the Housing Benefit Regulations 2006, 6th October 2003; and
- (b) in any other case, the date on which the claim for benefit under these Regulations or the Housing Benefit Regulations 2006 was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

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

Textual Amendments

- F14** Paragraph 7(2) was inserted by [S.I. 2002/2380](#).
- F15** Paragraph 12(2) was inserted by [S.I. 2002/2380](#).
- F16** Words in Sch. 6 para. 22(2)(c) substituted (19.5.2008) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **4(9)**
- F17** [S.I. 2002/1792](#). Paragraph 20A was inserted by [S.I. 2002/3197](#), and substituted by [S.I. 2003/2274](#).
- F18** Sch. 6 para. 22(2)(e) added (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **41(b)**
- F19** [S.I. 2001/1002](#). Regulation 1(2) was amended by [S.I. 2002/1379](#) and 2002/1703.
- F20** [S.I. 1999/991](#). Regulation 1(3) was amended by [S.I. 2002/1379](#).

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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.

^{F21}25.

Textual Amendments
F21 Sch. 6 para. 25 omitted (16.7.2007) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **5(6)**

26. The dwelling occupied as the home; but only one dwelling shall be disregarded under this paragraph.

[^{F22}26A. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to the Contributions and Benefits Act or under Schedule 1 to the Graduated Retirement Benefit Regulations, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—

- (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
- (b) the amount of that lump sum,

but only for so long as that person does not change that election in favour of an increase of pension or benefit.]

Textual Amendments
F22 Sch. 6 para 26A inserted by SI 2005/2677 reg. 11(4) (as amended) (6.4.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), **reg. 1(1)**, 2 (with Sch. 3, Sch. 4)

[^{F23}26B. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.]

Textual Amendments
F23 Sch. 6 para. 26B added (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(10)(d)**

[^{F24}26C. Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).]

Textual Amendments
F24 Sch. 6 para. 26C 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. 7(8)**

[^{F25}26D. Any payments made by virtue of regulations made under—

- (a) section 57 of the Health and Social Care Act 2001 (direct payments);

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- (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services); or
- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care).]

Textual Amendments

F25 Sch. 6 para. 26D inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **20(11)**

PART 2

Capital disregarded only for the purposes of determining deemed income

- 27. The value of the right to receive any income under a life interest or from a life rent.
- 28. 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.
- 29. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 30. Where property is held under a trust, other than—
 - (a) a charitable trust within the meaning of the Charities Act 1993 ^{F26}; 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 claimant or the claimant's partner, or both, that property.

Textual Amendments

F26 1993 c. 10.

Status:

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Changes to legislation:

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