

SCHEDULE 4

Regulation 39(2)

Sums to be disregarded in the calculation of income other than earnings

1. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by the applicant in respect of participation in the Mandatory Work Activity Scheme.

2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by the applicant in respect of participation in the Employment, Skills and Enterprise Scheme.

3. Any amount paid by way of tax on income which is to be taken into account under regulation 39 (calculation of income other than earnings).

4. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
- (a) engaged by a charitable or voluntary organisation; or
 - (b) volunteer,

if the applicant otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 41(5) (notional income).

5. Any payment in respect of expenses arising out of the applicant's participation in a service user group.

6. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

7. Where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of the applicant's income.

8. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and the applicant's partner is on an income-based jobseeker's allowance, the whole of the applicant's income.

9. Where the applicant, or a person who was the applicant's partner on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999⁽¹⁾ as in force at that date, the whole of the applicant's income.

10. Any disability living allowance or personal independence payment.

11. Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 10 or 13;
- (b) income support;
- (c) an income-based jobseeker's allowance;
- (d) an income-related employment and support allowance.

12. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006⁽²⁾ (including a mobility supplement under any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983⁽³⁾ or any payment intended to compensate for the non-payment of such a supplement.

13. Any attendance allowance.

(1) S.I. 1999/2734.

(2) S.I. 2006/606.

(3) S.I. 1983/686. Article 25A was inserted by S.I. 1983/1164 and amended by S.I. 1983/1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445 and 2001/420.

14. Any payment as holder of the Victoria Cross or of the George Cross or any analogous payment.

15.—(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⁽⁴⁾ (power to assist persons to take advantage of educational facilities);
 - (ii) directions made under section 73ZA of the Education (Scotland) Act 1980⁽⁵⁾ and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992⁽⁶⁾; or
 - (iii) regulations made under section 518 of the Education Act 1996⁽⁷⁾ (payment of school expenses: grant of scholarships etc);
- (b) corresponding to an education maintenance allowance made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002⁽⁸⁾ (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); or
 - (ii) regulations made under section 181 of that Act; or
- (c) by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(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;
- (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 or other payment made pursuant to any provision specified in sub-paragraph (1).

16. Any payment made by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2003⁽⁹⁾.

17.—(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit under section 30A, 40 or 41 of the 1992 Act, severe disablement allowance or an employment and support allowance;
- (b) of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training

⁽⁴⁾ 1980 c.44. Section 49 was amended by section 5 of the [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#) and paragraph 8 of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989 (c.39). Section 73(f) was amended by section 3 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

⁽⁵⁾ Section 73ZA was inserted by section 19 of the Further and Higher Education (Scotland) Act 2005 (asp 6).

⁽⁶⁾ 1992 c.37.

⁽⁷⁾ 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.

⁽⁸⁾ 2002 c.32. Section 14 was amended by section 59 of the Children Act 2004 (c.31), paragraph 23 of Schedule 14 to 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.

⁽⁹⁾ S.I. 2003/1917.

or other scheme to enhance the applicant's employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of the applicant's family, or any council tax or water charges for which that applicant or member is liable.

18.—(1) Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment not falling within head (a) or (b) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
- (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the applicant; or
 - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
- (e) a payment not falling within heads (a) to (d) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

(2) Sub-paragraph (1) does not apply to a payment which is made or due to be made by—

- (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
- (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

19. Any of the following payments—

- (a) a war disablement pension except insofar as that pension is to be disregarded under paragraph 12 (mobility supplement) or 13 (attendance allowance);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(3)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of a pension or payment mentioned in any of heads (a) to (d);
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in heads (a) to (d); or
- (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

20. Subject to paragraph 40, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the 1992 Act⁽¹⁰⁾;
- (b) widowed parent's allowance paid pursuant to section 39A of the 1992 Act⁽¹¹⁾.

21.—(1) Any income derived from capital to which the applicant is or is treated under regulation 50 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 3, 4, 6, 10, 16 or 30 to 33 of Schedule 5.

(2) Income derived from capital disregarded under paragraphs 4, 6 or 30 to 33 of Schedule 5 but only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of “water charges” in regulation 2(1) (interpretation) applies to sub-paragraph (2) with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as a home”.

22. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under regulations made under section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship or other allowance under that section or under regulations made under section 73 of that Act⁽¹²⁾, any payment to that student under that section;
- (b) the student's student loan, an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable; or
- (c) under or pursuant to regulations made under sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998⁽¹³⁾, that student's award.

23.—(1) Where the applicant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of—
 - (i) a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980 (power of education authorities to assist pupils to take advantage of educational facilities) or a payment under section 73 of that Act; or
 - (ii) an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teaching and Higher Education Act 1998 or regulations made under that Act,

⁽¹⁰⁾ Section 37 was amended by paragraph 18 of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 (c.33), paragraph 2 of Schedule 1 to the Child Benefit Act 2005 (c.6) and section 50 of the Welfare Reform Act 2007 (c.5).

⁽¹¹⁾ Section 39A was inserted by section 55 of the Welfare Reform and Pensions Act 1999 (c.30) and amended by paragraph 20 of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 (c.33), paragraph 3 of Schedule 1 to the Child Benefit Act 2005 (c.6) and section 51 of the Welfare Reform Act 2007 (c.5).

⁽¹²⁾ Section 73 was amended by section 73 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and section 3 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

⁽¹³⁾ 1998 c.30. Section 22 was amended by section 146 and Schedule 11 of the Learning and Skills Act 2000 (c.21), section 147 of the Finance Act 2003 (c.14), sections 42 and 43 of, and Schedule 7 to, the Higher Education Act 2004 (c.8), section 257 of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), section 76 of the Education Act 2011 (c.21) and paragraph 236 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1).

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 22, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount is a sum equal to the lesser of—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single applicant aged under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b).

24. Any payment made to the applicant by a child or young person or a non-dependant.

25. Where the applicant occupies a dwelling as the applicant's home and the dwelling is also occupied by a person other than one to whom paragraph 24 or 26 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of that person's family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of that person's family, or by that person and a member of that person's family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

26.—(1) Where the applicant occupies a dwelling as the applicant's home and the applicant provides in that dwelling board and lodging accommodation, an amount in respect of each person for which the accommodation is provided for the whole or any part of a week equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of the accommodation provided to such a person does not exceed £20, 100 per cent of the aggregate of the payments; and
- (b) where the aggregate of any payments exceeds £20, £20 and 50 per cent of the excess of the aggregate payment over £20.

(2) In this paragraph "board and lodging accommodation" means accommodation provided to a person or, if the person is a member of a family, to the person or any other member of the person's family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of the family of the person to whom the accommodation is provided) and are consumed in that accommodation or associated premises.

27.—(1) Any income in kind, except where regulation 39(11)(b) (calculation of income other than earnings) applies.

(2) In sub-paragraph (1) "income in kind" does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

28. Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

29.—(1) Any payment made in respect of a person who is a member of the applicant's family—

- (a) in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007⁽¹⁴⁾ (adoption allowances schemes) or pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002⁽¹⁵⁾;

⁽¹⁴⁾ 2007 asp 4.

⁽¹⁵⁾ 2002 c.38. Section 4 was amended by S.I. 2010/1158.

- (b) which is a payment made by a local authority in pursuance of section 50 of the Children Act 1975⁽¹⁶⁾ (payments towards maintenance of children) or section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989⁽¹⁷⁾ (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order);
 - (c) which is a payment made by an authority, as defined in article 2 of the Children (Northern Ireland) Order 1995⁽¹⁸⁾, in pursuance of article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance); or
 - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989⁽¹⁹⁾ (special guardianship support services).
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 30.** Any payment made to the applicant by virtue of arrangements made—
- (a) by a local authority under—
 - (i) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009⁽²⁰⁾ (fostering and kinship care allowances and fostering allowances); or
 - (ii) section 22C(5) and (6)(a) or (b) or section 23(2)(a) of the Children Act 1989⁽²¹⁾ (provision of accommodation and maintenance for a child whom they are looking after); or
 - (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989⁽²²⁾ (provision of accommodation by voluntary organisations).
- 31.** Any payment for a person (“the person concerned”), who is not normally a member of the applicant's household but is placed temporarily in the applicant's care, by—
- (a) a health authority;
 - (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 - (c) a voluntary organisation;
 - (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948⁽²³⁾;
 - (e) a primary care trust established under section 16A of the National Health Service Act 1977⁽²⁴⁾ or established by an order made under section 18(2)(c) of the National Health Service Act 2006⁽²⁵⁾; or
 - (f) a Local Health Board established under section 16BA of the National Health Service Act 1977⁽²⁶⁾ or established by an order made under section 11 of the National Health Service (Wales) Act 2006⁽²⁷⁾.

⁽¹⁶⁾ 1975 c.72. Section 50 was amended by paragraph 26 of Schedule 4 to the Children (Scotland) Act 1995 (c.36) and section 71 of the Regulation of Care (Scotland) Act 2001 (asp 8).

⁽¹⁷⁾ 1989 c.41. Section 15(1) was amended by paragraph 10 of Schedule 16 to the Courts and Legal Services Act 1990 (c.41). Paragraph 15 of Schedule 1 was amended by section 78 of the Civil Partnership Act 2004 (c.33).

⁽¹⁸⁾ S.I. 1995/755.

⁽¹⁹⁾ Section 14F was inserted by section 115 of the Adoption and Children Act 2002 (c.38).

⁽²⁰⁾ S.S.I. 2009/210. Regulation 33 was amended by S.S.I. 2009/290.

⁽²¹⁾ In relation to England sections 22A to 22F were substituted for section 23 by section 8 of the Children and Young Persons Act 2008 (c.23). Section 23(2)(a) remains in force in relation to Wales and was amended by section 49 of the Children Act 2004 (c.31) and paragraph 7 of Schedule 3 to the Children and Young Persons Act 2008 (c.23).

⁽²²⁾ Section 59(1)(a) was amended by section 49 of the Children Act 2004.

⁽²³⁾ 1948 c.29. Section 26(3A) was inserted by section 42 of the National Health Service and Community Care Act 1990 (c.19).

⁽²⁴⁾ 1977 c.49. Section 16A was inserted by section 2 of the Health Act 1999 (c.8).

⁽²⁵⁾ 2006 c.41.

⁽²⁶⁾ Section 16BA was inserted by section 6 of the National Health Service Reform and Health Care Professions Act 2002 (c.17).

⁽²⁷⁾ 2006 c.42.

32. Any payment made by a local authority in accordance with section 12 of the Social Work (Scotland) Act 1968**(28)**, section 22, 29 or 30 of the Children (Scotland) Act 1995**(29)** (provision of services for children and their families and advice and assistance to certain children) or section 17, 23B, 23C or 24A of the Children Act 1989**(30)**.

33.—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 29 of the Children (Scotland) Act 1995**(31)** (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) or section 23C of the Children Act 1989 to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the applicant's care;
- (b) is aged 18 or over; and
- (c) continues to live with the applicant.

34.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

- (a) on a loan which is secured on the dwelling which the applicant occupies as the applicant's home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974**(32)** or under a hire-purchase agreement or a conditional sale agreement as defined for then purposes of Part 3 of the Hire-Purchase Act 1964**(33)**.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or (b); and
- (b) meet any amount due by way of premiums on—
 - (i) that policy; or
 - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as the applicant's home and which is required as a condition of the loan referred to in that sub-paragraph.

35. Any payment of income which by virtue of regulation 45 (income treated as capital) is to be treated as capital.

(28) 1968 c.49. Section 12 was amended by section 66 and paragraph 10 of Schedule 9 to the National Health Service and Community Care Act 1990, paragraph 15 of Schedule 4 to 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).

(29) Section 22 was amended by paragraph 6 of Schedule 1 to the Tax Credits Act 1999 (c.10), paragraph 50 of Schedule 3 to the Tax Credits Act 2002 (c.21) and paragraph 14 of Schedule 3 to the Welfare Reform Act 2007 (c.5). Section 29 was amended by section 73 of the Regulation of Care (Scotland) Act 2001 (asp 8).

(30) Section 17 was amended by paragraph 108 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c.6), section 7 of the Children (Leaving Care) Act 2000 (c.35), paragraph 16 of Schedule 3 to the Tax Credits Act 2002, section 116 of the Adoption and Children Act 2002 (c. 38), section 53 of the Children Act 2004, paragraph 6 of Schedule 3 to the Welfare Reform Act 2007, and Schedule 1, paragraph 2 of Schedule 3 and Schedule 4 to the Children and Young Persons Act 2008 (c. 23). Section 23B was inserted by section 2 of Children (Leaving Care) Act 2000 and amended by paragraph 9 of Schedule 3 and Schedule 4 to the Children and Young Persons Act 2008. Section 23C was inserted by section 2 of the Children (Leaving Care) Act 2000 and amended by section 21 of the Children and Young Persons Act 2008. 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 to the Adoption and Children Act 2002.

(31) Section 29 was amended by section 73 of the Regulation of Care (Scotland) Act 2001 (asp 8).

(32) 1974 c.39.

(33) 1964 c.53.

- 36.** Any social fund payment made pursuant to Part 8 of the 1992 Act.
- 37.** A 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) by a local authority, in exercise of the power in section 20 of the Local Government in Scotland Act 2003⁽³⁴⁾ (power to advance well-being) and using funds provided by the Scottish Ministers from the Scottish Welfare Fund;
 - (b) by a local authority in exercise of the power in section 1 of the Localism Act 2011⁽³⁵⁾ (local authority's general power of competence) 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
 - (c) by, or on behalf of, the Welsh Ministers in exercise of the power in section 60 of the Government of Wales Act 2006⁽³⁶⁾ (promotion etc. of well-being).
- 38.** Any payment under Part 10 of the 1992 Act (Christmas bonus for pensioners).
- 39.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 40.** The total of an applicant's income or, if the applicant is a member of a family, the family's income and the income of any person which the applicant is treated as possessing under regulation 24(2) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under regulation 55(2)(b) (calculation of covenant income where a contribution is assessed), regulation 56(1)(d) (calculation of covenant income where no grant income or no contribution is assessed) regulation 59(2) (treatment of student loans), regulation 61(3) (treatment of payments from access funds) and paragraph 20 (widowed mother's allowance and widowed parent's allowance) must in no case exceed £20 per week.
- 41.—**(1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Relief Charitable Fund.
- (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 to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom the person is not, or where the person has died was not, estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved or, where the person has died, had not been dissolved at the time of the person's death;
 - (b) any child who is a member of the person's family or who was a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of the person's family or who was a member and who is a member of the applicant's family.
- (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 to which sub-paragraph (1) refers and which is made to or for the benefit of—

⁽³⁴⁾ 2003 asp 1.

⁽³⁵⁾ 2011 c.20.

⁽³⁶⁾ 2006 c.32.

- (a) the person who is suffering from haemophilia or who is a qualifying person;
 - (b) any child who is a member of the person's family or who was a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of the person's family or who was a member and who is a member of the applicant's family.
- (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 to which sub-paragraph (1) refers, where—
- (a) the person has no partner or former partner from whom the person is not estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of the person's family; and
 - (b) the payment is made either—
 - (i) to the person's parent or step-parent; or
 - (ii) where the person at the date of the payment is a child, a young person or a student who has not completed full-time education and has no parent or step-parent, to the person's guardian,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 to which sub-paragraph (1) refers, where—
- (a) the person at the date of death (the relevant date) had no partner or former partner from whom the person was not estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of the person's family; 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, a young person or a student who had not completed full-time education and had no parent or step-parent, to the person's guardian,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 income 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 is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) and the London Bombings Relief Charitable Fund.
- 42.** Any housing benefit.
- 43.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 44.** Any payment in consequence of a reduction of council tax under section 13 or 80 of the Act.
- 45.—(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⁽³⁷⁾ (travelling expenses and health service supplies);
- (b) under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003⁽³⁸⁾ (travelling expenses and health service supplies); or
- (c) under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007⁽³⁹⁾ (travelling expenses and health service supplies).

(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).

46. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988⁽⁴⁰⁾ 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).

47. 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.

48.—(1) Where an applicant's applicable amount includes an amount by way of family premium calculated under Part 2 of Schedule 1, £15 of any payment of aliment or maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one aliment or maintenance payment is to be taken into account in any week, all the payments are to be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance is, for the purpose of sub-paragraph (1), to be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

49.—(1) Any payment of child aliment or maintenance made by or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In paragraph (1)—

“child aliment or maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) the Child Support Act 1991⁽⁴¹⁾;
- (b) the Child Support (Northern Ireland) Order 1991⁽⁴²⁾;
- (c) a court order;

⁽³⁷⁾ 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, 2006/142, 2006/183 and 2011/55.

⁽³⁸⁾ S.I. 2003/2382. Regulation 5 was amended by S.I. 2004/663, 2004/936, 2006/562, 2008/1697 and 2009/411. Regulation 6 was amended by S.I. 2006/562 and 2006/675. Regulation 12 was amended by S.I. 2004/696 and 2006/562.

⁽³⁹⁾ S.I. 2007/1104. Regulation 5 was amended by S.I. 2008/1879 and 2568, and 2009/709. Regulation 11 was amended by S.I. 2009/1824.

⁽⁴⁰⁾ 1988 c.7. Section 13 was substituted by section 185 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43).

⁽⁴¹⁾ 1991 c.48.

⁽⁴²⁾ 1991/2628 (N.I. 23).

- (d) a consent order under the Civil Partnership Act 2004, the Matrimonial and Family Proceedings Act 1984 or the Matrimonial Causes Act 1973;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books; and

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987⁽⁴³⁾, other than a person falling within sub-paragraph (d) of that definition.

50. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944⁽⁴⁴⁾ to assist disabled persons to obtain or retain employment despite their disability.

51. Any guardian’s allowance payable under section 77 of the 1992 Act⁽⁴⁵⁾.

52.—(1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the 1992 Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the 1992 Act, where the dependant in respect of whom the increase is paid is not a member of the applicant’s family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006⁽⁴⁶⁾, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant’s family.

53. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006⁽⁴⁷⁾ (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

54. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983⁽⁴⁸⁾ (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme⁽⁴⁹⁾.

55.—(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
 - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
 - (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

⁽⁴³⁾ S.I. 1987/1967 was relevantly amended by S.I. 2005/2877 and 2008/2111.

⁽⁴⁴⁾ 1944 c.10.

⁽⁴⁵⁾ Section 77 was amended by Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 34 of Schedule 24 to the Civil Partnership Act 2004 (c.33) and paragraph 4 of Schedule 1 to the Child Benefit Act 2005 (c.6).

⁽⁴⁶⁾ S.I. 2006/606.

⁽⁴⁷⁾ Article 23(2) was amended by S.I. 2009/706.

⁽⁴⁸⁾ S.I. 1983/686. Regulation 27(3) was added by S.I. 1994/2021.

⁽⁴⁹⁾ Schedule 4 was substituted by S.I. 2012/670.

56. Except in a case which falls under paragraph 18(1) of Schedule 3, where the applicant is a person who satisfies any of the conditions of paragraph 18(2) of that Schedule, any amount of working tax credit up to £17.10.

57. Any payment made under section 12B of the Social Work (Scotland) Act 1968(**50**), sections 12A to 12C of the National Health Service Act 2006(**51**) (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001(**52**) (direct payments).

58.—(1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—

- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity; or
- (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) applies only in respect of payments which are paid to that person from the special account.

59.—(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of the applicant's family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) "food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

60. Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable, that excess amount less 50 pence.

61. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

62. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(**53**).

63.—(1) Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the applicant or the applicant's partner relating to a service which is provided to develop or sustain the capacity of the applicant or the applicant's partner to live independently in the applicant's accommodation.

(2) For the purposes of sub-paragraph (1) "local authority" includes, in England, a county council.

64. Any payment of child benefit.

(50) 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 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).

(51) 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).

(52) 2001 c.15. Section 57 was amended by section 146 of the Health and Social Care Act 2008 (c.14) and section 16 of the Social Care Charges (Wales) Measure 2010 (c.02).

(53) S.I. 2001/1167.

