

SCHEDULE 4

Regulation 32(2)

Capital to be disregarded

1. The dwelling or building to which the application relates.

2. Any one dwelling normally occupied by the relevant person as his only or main residence including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding regulation 16 (determination of income and capital of members of relevant person's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

3. Any dwelling which the relevant person intends to occupy as his only or main residence and—

- (a) which he acquires for occupation, and intends to occupy as such residence within 26 weeks from the date of acquisition or such longer period as is reasonable in the circumstances to enable the relevant person to obtain possession and commence occupation, or
- (b) in respect of which he is taking steps to attain 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, or
- (c) to which essential repairs or alterations are required in order to render it fit for such occupation, for such period as is necessary to enable those repairs or alterations to be carried out,

but, notwithstanding regulation 16 (determination of income and capital of members of relevant person's family and of a polygamous marriage) only one dwelling shall be disregarded under this paragraph.

4.—(1) Subject to sub-paragraph (2), any sum directly attributable to the proceeds of sale of any dwelling formerly occupied by the relevant person as his only or main residence to the extent to which it is to be used for the purchase of either—

- (a) the dwelling or building to which the application relates, or
- (b) any dwelling, other than that to which the application relates, which is intended for such occupation within 26 weeks from the date of sale or such longer period as is reasonable in the circumstances to enable the relevant person to complete the purchase.

(a) (2) (a) Sub-paragraph (1) shall not apply where a dwelling is disregarded under paragraph 26;

(b) sub-paragraph (1)(b) shall not apply where a dwelling is disregarded under paragraph 3.

5. Any dwelling occupied in whole or in part as his only or main residence—

- (a) by a partner, close relative, grandparent, grandchild, uncle, aunt, nephew or niece of a relevant person who is single or of any member of the family of the relevant person where that person is either aged 60 or over or incapacitated;
- (b) by the former partner of the relevant person; but this provision shall not apply where the former partner is a person from whom the relevant person is estranged or divorced.

6. Where a relevant person is in receipt of income support or an income-based jobseeker's allowance, the whole of his capital.

7. Any future interest in property of any kind, other than land or premises in respect of which the relevant person has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

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8.—(1) The assets of any business owned in whole or in part by the relevant person and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the relevant person where—

- (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.

9. Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of,—

- (a) any payment specified in paragraph 5, 7 or 8 of Schedule 3;
- (b) an income-related benefit or family income supplement under the Family Income Supplements Act (Northern Ireland) 1971(1), supplementary benefit under the Supplementary Benefits (Northern Ireland) Order 1977(2) or housing benefit under the Housing Benefits (Northern Ireland) Order 1983(3);
- (c) an income-based jobseeker's allowance.

10.—(1) Subject to sub-paragraph (2), any sum—

- (a) paid to the relevant person in consequence of damage to or loss of his only or main residence or any personal possession and intended for its repair or replacement; or
- (b) acquired by the relevant person (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to his only or main residence,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

(2) A sum to which sub-paragraph 1(b) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

11. Any sum—

- (a) deposited with a housing association as a condition of occupying the only or main residence;
- (b) which was so deposited and which is to be used for the purchase of another dwelling being the only or main residence, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the relevant person to complete the purchase.

12. Any personal possessions except those which have been acquired by the relevant person with the intention of reducing his capital in order to increase the amount of grant.

13. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

(1) 1971 c. 8 (N.I.); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(2) S.I. 1977/2156 (N.I. 27); repealed in part with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

(3) S.I. 1983/1121 (N.I. 14); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

14.—(1) Subject to sub-paragraph (2), where the funds of a trust are derived from a payment made in consequence of any personal injury to the relevant person, the value of the trust fund and the value of the right to receive any payment under that trust.

(2) Any value to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it does not represent funds or a payment which are for carrying out works to which the application relates.

15. The value of the right to receive any income under a life interest or from a life rent.

16. The value of the right to receive any income which is disregarded under paragraph 13 of Schedule 2 or paragraph 23 of Schedule 3.

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

18. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

19. Any payment made by a Health and Social Services Board under Article 18, 35 or 36 of the Children (Northern Ireland) Order 1995(4) (Health and Social Services Boards' duty to promote the welfare of children or powers to grant financial assistance to persons in, or formerly in, their care).

20. Any social fund payment.

21. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988(5) (mortgage interest payment under deduction of tax) on a payment of relevant loan interest for the purpose of acquiring an interest in the only or main residence or carrying out repairs or improvements to that residence.

22. Any capital which by virtue of regulation 29, 31(5) or 45 (annuity treated as income, modifications in respect of child and young person or treatment of student loans) is to be treated as income.

23. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

24.—(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 Independent Living (Extension) Fund, the Independent Living (1993) Fund or the Independent Living Fund.

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

- (a) that person’s partner or former partner from whom he is not, or where that person had died was not, estranged or divorced;
- (b) any child who is a member of that person’s family or who was such a member and who is a member of the relevant person’s family; or
- (c) any young person who is a member of that person’s family or who was such a member and who is a member of the relevant person’s family.

(3) Any payment by or on behalf of the partner or former partner of a person who suffered or is suffering from haemophilia or who was or is 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 and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;

(4) S.I. 1995/755 (N.I. 2); to which there are no relevant amendments

(5) 1988 c. 1; section 369(1A) was inserted by section 81(3) of the Finance Act 1994 (c. 9)

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- (b) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person'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 any of the Trusts where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; 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, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,but only for a period from the date of the payment until the end of 2 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 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 or young person who was or had been a member of his family; 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, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,but only for a period of 2 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.

25.—(1) Where a relevant person has ceased to occupy what was formerly the dwelling occupied as the only or main residence 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 by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes any premises not so occupied which it is impracticable or unreasonable to sell separately.

26. Any premises where the relevant person is taking reasonable steps to dispose of 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.

27. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss (in whole or in part) of entitlement to housing benefit.

28. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss of housing benefit supplement under regulation 19A of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983⁽⁶⁾.

29. The value of the right to receive an occupational or personal pension.

30. The value of any funds held under a personal pension scheme or retirement annuity contract.

31. The value of the right to receive any rent except where the relevant person has a reversionary interest in the property in respect of which rent is due.

32. Any payment in kind made by a charity or under the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Independent Living (1993) Fund.

33. £200 of any payment, or if the payment is less than £200, the whole of the payment made under section 4 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 1 of the Employment and Training Act (Northern Ireland) 1950 as a training bonus to a person participating in provision or arrangements for training under either of those Acts but only for a period of 52 weeks from the date of receipt of that payment.

34. Any housing benefit, or housing benefit in the form of a community charge rebate.

35. Any community charge benefit.

36. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988⁽⁷⁾ or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987⁽⁸⁾ (reduction of liability for personal community charge) or reduction of council tax either under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992⁽⁹⁾ (reduction of liability for council tax).

37.—(1) Subject to sub-paragraph (2), any grant made in Great Britain to the relevant person in accordance with a scheme made under section 129 of the Housing Act 1988⁽¹⁰⁾ or section 66 of the Housing (Scotland) Act 1988⁽¹¹⁾ (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(a) to purchase premises intended for occupation as his only or main residence; or

(b) to carry out repairs or alterations which are required to render premises fit for such occupation,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the relevant person to commence such occupation.

(2) A grant to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

38. Any arrears of special war widows payment which is disregarded under paragraph 42 of Schedule 3 (sums to be disregarded in the determination of income other than earnings) or of any amount which is disregarded under paragraph 54, 55 or 56 of that Schedule.

(6) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 291, S.R. 1984 No. 79 and S.R. 1986 No. 236

(7) 1988 c. 41; section 13A was inserted by paragraphs 1, 5 and 79(3) of Schedule 5 to the Local Government and Housing Act 1989 c. 42 and was repealed, with savings, by section 117(2) of, and Schedule 14 to, the Local Government Finance Act 1992 c. 14

(8) 1987 c. 47; section 9A was inserted by section 143 of the Local Government and Housing Act 1989 c. 42 and was repealed, with savings, by section 117(2) of, and Schedule 14 to, the Local Government Finance Act 1992 c. 14

(9) 1992 c. 14; to which there are no relevant amendments

(10) 1988 c. 50; section 129(5)(b) was repealed by section 194 of, and Schedule 12 to, the Local Government and Housing Act 1989 c. 42

(11) 1988 c. 43; to which there are no relevant amendments

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39.—(1) Any payment or repayment made under regulation 3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989⁽¹²⁾ (entitlement to full remission and payment, persons entitled to remission in part or payment in part, or repayment).

(2) Any payment or repayment made by the Department of Health and Social Services which is analogous to a payment or repayment mentioned in sub-paragraph (1).

40. Any payment made under regulation 8, 9, 10 or 12 of the Welfare Foods Regulations (Northern Ireland) 1988⁽¹³⁾ (failure to receive milk tokens, inability to purchase dried milk at a reduced price, inability to obtain free vitamins or absence of beneficiary for less than a week).

41. Any payment made under a scheme established by the Secretary of State to assist relatives and other persons to visit persons in custody.

42. Any payment made by the Department of Health and Social Services to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with and including that day.

43. Any payment (other than a training allowance, or a training bonus paid under section 3(3) of the Employment and Training Act (Northern Ireland) 1950)⁽¹⁴⁾ made, whether by the Department of Economic Development or any other person, under the Disabled Persons (Employment) Act (Northern Ireland) 1945⁽¹⁵⁾ or in accordance with arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950⁽¹⁶⁾ to assist disabled persons to obtain or retain employment despite their disability.

44. Any council tax benefit.

45.—(1) Any sum of capital administered—

(a) by the High Court—

(i) on behalf of a person under the age of 18 under the provisions of Order 80 of the Rules of the Supreme Court (Northern Ireland) 1980⁽¹⁷⁾; or

(ii) on behalf of a patient under the provisions of Order 109 of those Rules⁽¹⁸⁾;

(b) by the county court—

(i) under the provisions of Order 44 of the County Court Rules (Northern Ireland) 1981⁽¹⁹⁾; or

(ii) under Article 21 of the County Courts (Northern Ireland) Order 1980⁽²⁰⁾.

(2) Paragraph (1) applies to a sum which derives from—

(a) an award of damages for a personal injury to a person mentioned in that paragraph; or

(b) compensation for the death of one or both parents of such person.

46. Any sum of capital administered on behalf of a person under the age of 18 by Her Majesty's High Court of Justice in England under the provisions of Order 80 of the Rules of the Supreme

⁽¹²⁾ S.R. 1989 No. 348; the relevant amending regulations are S.R. 1990 No. 313 and S.R. 1991 No. 224

⁽¹³⁾ S.R. 1988 No. 137; the relevant amending regulations are S.R. 1991 No. 81

⁽¹⁴⁾ 1950 c. 29 (N.I.); section 3 was amended by Article 35 of, and Schedule 4 to, the Industrial Training (Northern Ireland) Order 1984 (S.I. 1984/1159 (N.I. 9))

⁽¹⁵⁾ 1945 c. 6 (N.I.); to which there are no relevant amendments

⁽¹⁶⁾ Section 1(1) was amended by Article 3 of the Employment and Training (Amendments) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

⁽¹⁷⁾ S.R. 1980 No. 346 as amended by S.R. 1986 No. 184 and S.R. 1996 No. 321

⁽¹⁸⁾ Order 109 was amended by S.R. 1986 No. 184 and S.R. 1995 No. 462

⁽¹⁹⁾ S.R. 1981 No. 225 as amended by S.R. 1986 No. 218 rule 3 and S.R. 1988 No. 100 rule 2(5)

⁽²⁰⁾ S.I. 1980/397 (N.I. 3); to which there are no relevant amendments

Court 1965(21), the county court under Order 10 of the County Court Rules 1981(22), or the Court of Protection, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

47. Any sum of capital administered on behalf of a person under the age of 18 in accordance with an order made under Rule 43.15 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(23) or under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(24), or under Rule 36.14 of the Ordinary Cause Rules 1993(25) or under Rule 128 of the Ordinary Cause Rules(26) where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

48. Any payment to the relevant person as a holder of the Victoria Cross or George Cross.

49. Any back to work bonus payable by way of a jobseeker's allowance or income support in accordance with Article 28 of the Jobseekers (Northern Ireland) Order 1995(27) or a corresponding payment under section 26 of the Jobseekers Act 1995(28).

50. Any amount of housing benefit to which a person is entitled by virtue of regulation 7B of the Housing Benefit (General) Regulations (Northern Ireland) 1987(29).

51. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support (General) Regulations (Northern Ireland) 1987(30).

(21) [S.I. 1965/1776](#); for Order 80 as currently in force *see* "The Supreme Court Practice 1997": ISBN 0-421-57620-0

(22) [S.I. 1981/1687](#); for Order 10 as currently in force *see* "The County Court Practice 1996"; ISBN 0-406-06506-3

(23) [S.I. 1994/1443](#); to which there are no relevant amendments

(24) [S.I. 1965/321](#); to which there are no relevant amendments

(25) First Schedule to the Sheriff Courts (Scotland) Act 1907 (c. 51) as substituted in respect of causes commenced on or after 1st January 1994 by [S.I. 1993/1956](#)

(26) First Schedule to the Sheriff Courts (Scotland) Act 1907 as substituted by [S.I. 1983/747](#)

(27) [S.I. 1995/2705 \(N.I. 15\)](#); to which there are no relevant amendments

(28) [1995 c. 18](#)

(29) [S.R. 1987 No. 461](#); regulation 7B was inserted by [S.R. 1996 No. 448](#)

(30) [S.R. 1987 No. 459](#); regulation 21A was inserted by [S.R. 1996 No. 449](#)