

SCHEDULE 5

Capital to be disregarded

59.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date 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 acting in place of the diagnosed person's parents at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than the diagnosed person's partner) or a person who was a member of the diagnosed person's family (other than the diagnosed person's partner) 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 applies 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 applies for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the latest of—
 - (i) two years after that date; or
 - (ii) on the day before the day the person ceases receiving full-time education; or
 - (iii) on the day before the day the person attains the age of 20.

(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 an applicant or a member of an applicant's family who is—

- (a) a diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was acting in place of the diagnosed person's parents at the date of the diagnosed person's death; or
- (c) a member of a diagnosed person's family (other than the diagnosed person's partner) or a person who was a member of the diagnosed person's family (other than the diagnosed person's partner) at the date of the diagnosed person's death,

but only to the extent that the payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies 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)(b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending two years after that date; or

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- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the latest of—
 - (i) two years after that date;
 - (ii) on the day before the day on which the person ceases receiving full-time education; or
 - (iii) on the day before the day the person attains the age of 20.

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

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

at the date of the diagnosed person’s death includes 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, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who after death has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease; and

“trust payment” means a payment under a trust established out of funds provided by the Secretary of State in respect of persons who suffered from, or who are suffering from, variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions.