

SCHEDULE 4

Regulation 32(2)

CAPITAL TO BE DISREGARDED

1. The dwelling, together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding regulation 12 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. 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.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part by a partner or relative (that is to say any close relative, grandparent, grandchild, uncle, aunt, nephew or niece) of any member of the family as his home, where that person is aged 60 or over or has been incapacitated for a continuous period of at least 13 weeks immediately preceding the date of the claim.

5. Any reversionary interest.

6.—(1) 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 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 claimant where—

- (a) he has ceased to be engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; and
- (b) he intends to become re-engaged as a self-employed earner in that business as soon as he recovers or is able to be re-engaged in that business,

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

7. Any sum attributable to the proceeds of sale of any asset of such a business which is re-invested or to be re-invested in the business within 13 weeks of the date of sale or such longer period as may be reasonable to allow for the re-investment.

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

- (a) any payment specified in paragraphs 4, 6 or 7 of Schedule 3;
- (b) an income-related benefit or supplementary benefit under the Supplementary Benefits Act 1976⁽¹⁾, family income supplement under the Family Income Supplements Act 1970⁽²⁾ or housing benefit under Part II of the Social Security and Housing Benefits Act 1982⁽³⁾,

(1) 1976 c. 71.

(2) 1970 c. 55.

(3) 1982 c. 24.

but only for a period of 52 weeks from the date of the receipt of the arrears or of the concessionary payment.

9. Any sum—

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

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 enable the claimant to effect the repairs, replacement or improvements.

10. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985(4) or section 338(1) of the Housing (Scotland) Act 1987(5) as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as is reasonable in the circumstances to complete the purchase.

11. Any personal possessions except those which have been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to disability working allowance or to increase the amount of that benefit.

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

13. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant, the value of the trust fund and the value of the right to receive any payment under that trust.

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

15. The value of the right to receive any income which is disregarded under paragraph 1 of Schedule 2 or 21 of Schedule 3.

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

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

18. Any payment made by a local authority under section 17(b) or 24(7) of the Children Act 1989(6) or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968(7) (provision of services for children and their families and advice and assistance for certain children).

19. Any social fund payment under Part III of the Act.

20. Any refund of tax which falls to be deducted under section 26 of the Finance Act 1982(8) (deductions of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

(4) 1985 c. 69.
(5) 1987 c. 26.
(6) 1989 c. 41.
(7) 1968 c. 49.
(8) 1982 c. 39.

21. Any capital which by virtue of regulations 28 (capital treated as income) or 47 (treatment of student loans) is to be treated as income.

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

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

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia, or by or on behalf of his partner or former partner from whom he is not or, where either that person or his former partner has died, was not estranged or divorced, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person or that person’s partner or former partner to whom this sub-paragraph refers;
- (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 claimant’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 claimant’s family.

(3) Any payment by a person who is suffering from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child 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 two years from that person’s death.

(4) Any payment out of the estate of a person who suffered from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, nor any child 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.

(5) In the case of a person to whom or for whose benefit a payment under sub-paragraph (1), (2), (3) or (4) is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

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

25. The value of the right to receive any rent.

26.—(1) Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling.

(2) In this paragraph “dwelling” includes any garage, garden and outbuildings which were formerly occupied by the claimant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

27. Any premises where the claimant 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.

28. 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.

29. 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 reasonable in the circumstances to enable those repairs or alterations to be carried out and the claimant to commence occupation of the premises.

30. Any premises occupied in whole or in part by the former partner of a 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.

31. Any payment in kind made by a charity or under the Macfarlane (Special Payments) Trust or the Macfarlane (Special Payments) (No. 2) Trust.

32. Any payment not exceeding £200 made under section 2 of the Employment and Training Act 1973⁽⁹⁾ (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 as a training bonus to a person participating in arrangements for training made under either of those sections but only for a period of 52 weeks from the date of the receipt of that payment.

33. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

34. Any payment made by the Secretary of State 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 that day.

35. Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983.

36. Any payment made to a juror or witness in respect of attendance at court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

37. 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 or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 (reduction of liability for personal community charge) but only for a period of 52 weeks from the date of receipt of the payment.

(9) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25.

38. Any grant made to the claimant 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 home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

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 claimant to commence occupation of those premises as his home.

39.—(1) Any payment or repayment made—

- (a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 (travelling expenses and health service supplies);
- (b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988 (travelling expenses and health service supplies);

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales which is analogous to a payment or repayment mentioned in sub-paragraph (1); but only for a period of 52 weeks from the date of receipt of the payment or repayment.

40. Any payment made under regulations 9 to 11 or 13 of the Welfare Food Regulations 1988 (payments made in place of milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

41. Any payment made either by the Secretary of State for the Home Department or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of receipt of the payment.

42. Any arrears of special war widows payment which is disregarded under paragraph 42 of Schedule 3 (sums to be disregarded in the calculation of income other than earnings), but only for a period of 52 weeks from the date of receipt of the arrears.

43. Any payment made, whether by the Secretary of State or any other person, under the Disabled Persons Employment Act 1944(**12**) or in accordance with arrangements made under section 2 of the Employment and Training Act 1973(**13**) to assist disabled persons to obtain or retain employment despite their disability.

44. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(**14**) to homeworkers assisted under the Blind Homeworkers' Scheme.

(10) 1988 c. 50.

(11) 1988 c. 43.

(12) 1944 c. 10.

(13) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

(14) 1958 c. 33.