

SCHEDULE

Remissions and Part Remissions

Disposable capital test

Disposable capital test

- 3.—(1) Subject to paragraph 4, a party satisfies the disposable capital test if—
- (a) the fee payable by the party and for which an application for remission is made, falls within a fee band set out in column 1 of Table 1; and
 - (b) the party's disposable capital is less than the amount in the corresponding row of column 2.

Table 1

| <i>Column 1 (fee band)</i> | <i>Column 2 (disposable capital)</i> |
|----------------------------|--------------------------------------|
| Up to and including £1,000 | £3,000 |
| £1,001 to £1,335 | £4,000 |
| £1,336 to £1,665 | £5,000 |
| £1,666 to £2,000 | £6,000 |
| £2,001 to £2,330 | £7,000 |
| £2,331 to £4,000 | £8,000 |
| £4,001 to £5,000 | £10,000 |
| £5,001 to £6,000 | £12,000 |
| £6,001 to £7,000 | £14,000 |
| £7,001 or more | £16,000 |

4. Subject to paragraph 14, if a party or their partner is aged 61 or over, that party satisfies the disposable capital test if that party's disposable capital is less than £16,000.

Disposable capital

5. Subject to paragraph 14, disposable capital is the value of every resource of a capital nature belonging to the party on the date on which the application for remission is made, unless it is treated as income by this Order, or it is disregarded as excluded disposable capital.

Disposable capital - non-money resources

6. The value of a resource of a capital nature that does not consist of money is calculated as the amount which that resource would realise if sold, less—
- (a) 10% of the sale value; and
 - (b) the amount of any borrowing secured against that resource that would be repayable on sale.

Disposable capital - resources held outside the United Kingdom

7.—(1) Capital resources in a country outside the United Kingdom count towards disposable capital.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) If there is no prohibition in that country against the transfer of a resource into the United Kingdom, the value of that resource is the amount which that resource would realise if sold in that country, in accordance with paragraph 6.

(3) If there is a prohibition in that country against the transfer of a resource into the United Kingdom, the value of that resource is the amount that resource would realise if sold to a buyer in the United Kingdom.

Disposable capital - foreign currency resources

8. Where disposable capital is held in currency other than sterling, the cost of any banking charge or commission that would be payable if that amount were converted into sterling, is deducted from its value.

Disposable capital - jointly owned resources

9. Where any resource of a capital nature is owned jointly or in common, there is a presumption that the resource is owned in equal shares, unless evidence to the contrary is produced.

Excluded disposable capital

10. The following things are excluded disposable capital—

- (a) a property which is the main or only dwelling occupied by the party;
- (b) the household furniture and effects of the main or only dwelling occupied by the party;
- (c) articles of personal clothing;
- (d) any vehicle, the sale of which would leave the party, or their partner, without motor transport;
- (e) tools and implements of trade, including vehicles used for business purposes;
- (f) the capital value of the party's or their partner's business, where the party or their partner is self-employed;
- (g) the capital value of any funds or other assets held in trust, where the party or their partner is a beneficiary without entitlement to advances of any trust capital;
- (h) a jobseeker's back to work bonus;
- (i) a payment made as a result of a determination of unfair dismissal by a court or tribunal, or by way of settlement of a claim for unfair dismissal;
- (j) any compensation paid as a result of a determination of medical negligence or in respect of any personal injury by a court, or by way of settlement of a claim for medical negligence or personal injury;
- (k) the capital held in any personal or occupational pension scheme;
- (l) any cash value payable on surrender of a contract of insurance;
- (m) any capital payment made out of the Independent Living Funds;
- (n) any bereavement payment;
- (o) any capital insurance or endowment lump sum payments that have been paid as a result of illness, disability or death;
- (p) any student loan or student grant;
- (q) any payments under the criminal injuries compensation scheme.