

## SCHEDULE

### Council Tax Reduction Schemes (Default Scheme) (Wales)

## PART 9

### Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

#### CHAPTER 7

#### Capital

#### Notional capital

**64.**—(1) An applicant is to be treated as possessing capital of which the applicant has deprived himself or herself for the purpose of securing entitlement to a reduction or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraphs 65 and 66 (diminishing notional capital rule).

(2) An applicant who is a pensioner who disposes of capital for the purpose of—

- (a) reducing or paying a debt owed by the applicant; or
- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case,

is to be regarded as not depriving himself or herself of it.

(3) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.

(4) Except in the case of—

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 9; or
- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 48(2)(a) of Schedule 9 (capital disregards: persons who are not pensioner) applies which is administered in the way referred to in paragraph 49(1)(a) of that Schedule; or
- (f) any sum to which paragraph 49(a) of Schedule 9 refers; or
- (g) child tax credit; or
- (h) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by the applicant, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.

(5) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), made—

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or

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- a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
  - (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by the single applicant or used by or on behalf of any member of the family.
- (6) Sub-paragraph (5) does not apply in respect of a payment of capital made—
- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund;
  - (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
    - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
    - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
    - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
  - (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
  - (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
  - (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
  - (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in sub-paragraph (i) and any member of that person's family do not possess, or are not treated as possessing, any other income apart from that payment.
- (7) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, the applicant may be treated as if the applicant were such sole owner or partner and in such a case—
- (a) the value of the applicant's holding in that company must, notwithstanding paragraph 60 (calculation of capital) be disregarded; and

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- (b) the applicant must, subject to sub-paragraph (8), be treated as possessing an amount of capital equal to the value or, as the case may be, the applicant's share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which the applicant does possess.
- (8) For so long as the applicant undertakes activities in the course of the business of the company, the amount which the applicant is treated as possessing under sub-paragraph (7) is to be disregarded.
- (9) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which the applicant does possess.