

SCHEDULE 2

Regulation 21

Disregards

1. The following Schedules shall have effect as follows—
  - (a) the First Schedule shall have effect as—
    - (i) Schedule 3A to the Housing Benefit Regulations; and
    - (ii) Schedule 3A to the Council Tax Benefit Regulations;
  - (b) the Second Schedule shall have effect as—
    - (i) Schedule 4A to the Housing Benefit Regulations; and
    - (ii) Schedule 4A to the Council Tax Benefit Regulations;
  - (c) the Third Schedule shall have effect as—
    - (i) Schedule 5ZA to the Housing Benefit Regulations, to be inserted immediately following Schedule 5 to those Regulations; and
    - (ii) Schedule 5ZA to the Council Tax Benefit Regulations, to be inserted immediately following Schedule 5 to those Regulations.

**Commencement Information**

**II** Sch. 2 para. 1 in force at 6.10.2003, see **reg. 1(1)(b)**

- 2.—(1) In the First Schedule—
  - (a) in paragraphs 4(3) and 9(2)(cc) as they apply to council tax benefit, the references to Schedule 2A are references to Schedule 1A;
  - (b) in paragraph 9(3)(b) as it applies to council tax benefit, the reference is to regulation 18(1)(c); and
  - (c) in paragraph 8 as it applies to council tax benefit, the reference is to regulation 20(8)(b).

[<sup>F1</sup>(1A) In the Second Schedule, in paragraph 23 as it applies to council tax benefit, the reference in sub-paragraph (a) of that paragraph is to regulation 17(5).]
- (2) In the Third Schedule—
  - (a) in paragraph 10, as it applies to council tax benefit, for the words “housing benefit” substitute “council tax benefit”;
  - <sup>F2</sup>(b) .....

“THE FIRST SCHEDULE

“Sums disregarded from claimant’s earnings

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—
  - (a) £25 in the case of a lone parent;
  - (b) £20 in any other case.
2. In a case where a claimant is a lone parent, £25 of earnings.

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**3.—(1)** In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—

- (a) as a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959<sup>(1)</sup>;
- (b) as an auxiliary coastguard in respect of coast rescue activities;
- (c) in the manning or launching of a lifeboat if the employment is part-time;
- (d) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001<sup>(2)</sup>.

(3) If the claimant's partner is engaged in any employment, so much of his earnings as would not in aggregate with the amount of the claimant's earnings disregarded under this paragraph exceed £20.

**4.—(1)** If the claimant or his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

(2) Where the carer premium is awarded in respect of the claimant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.

(3) In this paragraph, the claimant or his partner is a carer if paragraph 9 of Part III of Schedule 2A (carer premium) is satisfied in respect of him.

**5.—(1)** £20 is disregarded if the claimant or, if he has a partner, his partner—

(a) is in receipt of—

- (i) long-term incapacity benefit under section 30A of the Contributions and Benefits Act<sup>(3)</sup>;
- (ii) severe disablement allowance under section 68 of that Act<sup>(4)</sup>;
- (iii) attendance allowance;
- (iv) disability living allowance under sections 71 to 76 of that Act;
- (v) any mobility supplement under article 26A of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983<sup>(5)</sup> (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983<sup>(6)</sup>; or

(b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948<sup>(7)</sup> (welfare services) or, in Scotland, has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a regional or islands council; or

(c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(1) 1947 c. 41, 1951 c. 27 and 1959 c. 44.

(2) S.I. 2001/1004.

(3) Section 30A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18).

(4) Saved by S.I. 2000/2958, article 4.

(5) S.I. 1983/883.

(6) S.I. 1983/686; amended by S.I. 1983/1164 and 1540 and 1986/628.

(7) 1948 c. 29.

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- (i) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of that Act<sup>(8)</sup>, 196 days;
  - (ii) in any other case, 364 days.
- (2) Subject to sub-paragraph (3), £20 is disregarded if the claimant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the claimant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit and—
- (a) £20 was disregarded in respect of earnings taken into account in that award;
  - (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.
- (3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's entitlement to housing benefit or council tax benefit or in employment following the first day in respect of which that benefit is awarded.
- (4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the claimant has a partner, both the claimant and his partner satisfy the requirements of this paragraph.
6. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 4A had the claimant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
7. Except where the claimant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—
- (a) £5 shall be disregarded if a claimant who has no partner has earnings;
  - (b) £10 shall be disregarded if a claimant who has a partner has earnings.
8. Any earnings, other than earnings referred to in regulation 28(8)(b), derived from employment which ended before the day in respect of which the claimant first satisfies the conditions for entitlement to housing benefit.

9.—(1) In a case where the claimant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this Schedule shall be increased by a sum equal to the 30 hour element of working tax credit referred to in regulation 20(1)(c) of the Working Tax Credit Regulations.

- (2) The conditions of this sub-paragraph are that—
- (a) the claimant, or if he has a partner, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or
  - (b) the claimant—
    - (i) is, or if he has a partner, his partner is, or both the claimant and his partner are, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
    - (ii) if he is a member of a couple—
      - (aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week;

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<sup>(8)</sup> Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 2.

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- (bb) the aggregate number of hours for which the couple are engaged in remunerative work is at least 30 hours per week; and
  - (cc) his applicable amount includes a family premium under paragraph 3 of Schedule 2A; or
  - (iii) is a lone parent who is engaged in remunerative work for on average not less than 30 hours per week; or
  - (iv) is, or if he has a partner, one of them is or both are, engaged in remunerative work for on average not less than 30 hours per week and—
    - (aa) paragraph 5(1) above is satisfied in respect of one or, as the case may be, both of them; and
    - (bb) the person in respect of whom it is satisfied is engaged in remunerative work for on average not less than 16 hours per week.
- (3) The following are the amounts referred to in sub-paragraph (1)—
- (a) any amount disregarded under this Schedule;
  - (b) the amount of child care charges calculated as deductible under regulation 26(1)(c); and
  - (c) the amount of the element referred to in regulation 20(1)(c) of the Working Tax Credit Regulations.
- (4) The provisions of regulation 4 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation was a reference to 30 hours.
- (5) In this paragraph, “the Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>(9)</sup>.
- 10.** Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.”.

## THE SECOND SCHEDULE

### “Amounts to be disregarded in the calculation of income other than earnings

- 1.** In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following, namely—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
  - (b) a war widow’s or war widower’s pension;
  - (c) a pension payable to a person as a widow or widower under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983<sup>(10)</sup> insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865<sup>(11)</sup> or the Pensions and Yeomanry Pay Act 1884<sup>(12)</sup>, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977<sup>(13)</sup> and any power of Her Majesty otherwise than under an enactment to make provision

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<sup>(9)</sup> S.I. 2002/2005.

<sup>(10)</sup> S.I. 1983/883.

<sup>(11)</sup> 1865 c. 73.

<sup>(12)</sup> 47 & 48 Vict. c. 55.

<sup>(13)</sup> 1977 c. 5.

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- about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c) above;
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
2. The whole of any amount included in a pension to which paragraph 1 relates in respect of—
- (a) the claimant’s need for constant attendance;
- (b) the claimant’s exceptionally severe disablement.
3. Any mobility supplement under article 26A of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(14) (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(15) or any payment intended to compensate for the non-payment of such a supplement.
4. Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(16) (pensions to widows or widowers).
5. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(17) (pensions to widows or widowers), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 6.—(1) Any payment which is—
- (a) made under any of the Dispensing Instruments to a widow of a person—
- (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
- (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows or widowers).
- (2) In this paragraph, “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).
7. £15 of any widowed parent’s allowance to which the claimant is entitled under section 39A of the Contributions and Benefits Act(18).
8. £15 of any widowed mother’s allowance to which the claimant is entitled under section 37 of the Contributions and Benefits Act.

(14) Article 26A was added by S.I. 1983/1116 and amended by S.I. 1983/1521, 1986/592 and 1989/156.

(15) S.I. 1983/686; amended by S.I. 1983/1164 and 1540, 1986/628 and 1989/415.

(16) Relevant amending Instruments are S.I. 1993/598 and 1906.

(17) Relevant amending Instruments are S.I. 1994/715 and 2021.

(18) Section 39A was inserted by section 55 of the Welfare Reform and Pensions Act 1999 (c. 30).

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**9.** Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent. of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.

**10.** If the claimant—

- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
  - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
  - (ii) the amount paid is £20 or more per week, £20.

**11.** Where a claimant receives income under an annuity purchased with a loan which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988<sup>(19)</sup> (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

**12.—**(1) Any payment, other than a payment to which sub-paragraph (2) applies, made to the claimant by Trustees in exercise of a discretion exercisable by them.

<sup>(19)</sup> 1988 c. 1; subsection (1A) was inserted by the Finance Act 1994 (c. 9), section 81(3).

(2) This sub-paragraph applies to payments made to the claimant by Trustees in exercise of a discretion exercisable by them for the purpose of—

- (a) obtaining food, ordinary clothing and footwear or household fuel;
- (b) the payment of rent, council tax or water charges for which that claimant or his partner is liable;
- (c) meeting housing costs of a kind specified in Schedule II to the State Pension Credit Regulations 2002(20).

(3) In a case to which sub-paragraph (2) applies, £20 or—

- (a) if the payment is less than £20, the whole payment;
- (b) if, in the claimant's case, £10 is disregarded in accordance with paragraph 1(a) to (f), £10 or the whole payment if it is less than £10; or
- (c) if, in the claimant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—
  - (i) he has no disregard under paragraph 1(a) to (f), £5 or the whole payment if it is less than £5;
  - (ii) he has a disregard under paragraph 1(a) to (f), nil.

(4) For the purposes of this paragraph—

“ordinary clothing and footwear” means clothing and footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities; and

“rent” means eligible rent for the purposes of the Housing Benefit (General) Regulations 1987(21) less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions) of those Regulations.

**13.** Any increase in pension under Part IV of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(22) paid in respect of a dependant other than the pensioner's spouse.

**14.** Any payment ordered by a court to be made to the claimant or the claimant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.

**15.** Periodic payments made to the claimant or the claimant's partner under an agreement entered into in settlement of a claim made by the claimant or, as the case may be, the claimant's partner for an injury suffered by him.

**16.** Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**17.** Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.

**18.** Where the claimant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under regulations made in exercise of the powers conferred by section 1 of the Education Act 1962(23), that student's award under that section;

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(20) S.I. 2002/1792.

(21) S.I. 1987/1971; see regulations 2(1) and 10.

(22) S.I. 1983/883.

(23) 1962 c. 12; section 1 was amended by the Education Act 1996 (c. 56), Schedule 37, paragraph 4.

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- (b) that student's award under section 2 of that Act;
- (c) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980<sup>(24)</sup>, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (d) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

**19.**—(1) Where the claimant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the claimant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount shall be equal to—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single claimant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

**20.**—(1) Where a claimant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the claimant's spouse or former spouse, or the claimant's partner's spouse or former spouse.

(2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

**21.** Except in a case which falls under paragraph 9 of Schedule 3A, where the claimant is entitled to the 30 hour element of working tax credit referred to in regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>(25)</sup>, any amount of working tax credit up to the amount specified for that element in Schedule 2 to those Regulations.”.

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<sup>(24)</sup> 1980 c. 44.

<sup>(25)</sup> S.I. 2002/2005.



## THE THIRD SCHEDULE

### “PART I

#### Capital to be disregarded

1. 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.

2. 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.

3. 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 necessary to enable those repairs or alterations to be carried out.

4. Any premises occupied in whole or in part—

- (a) by a partner or close relative of a single claimant as his home where that person is either aged 60 or over or incapacitated;
- (b) by the former partner of the 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.

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

6.—(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 or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In paragraph (1), “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.

7. Any premises where the claimant is taking reasonable steps to dispose of the whole of his interest in 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.

8. All personal possessions.

9. 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

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engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.

- 10.** The assets of any business owned in whole or in part by the claimant if—
- (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,

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

- 11.** The surrender value of any policy of life insurance.

**12.** The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—

- (a) the claimant makes one or more payments to another person (“the provider”);
- (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the claimant on his death; and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the claimant on his death.

**13.** Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

- (a) the claimant;
- (b) the claimant’s partner;
- (c) the claimant’s deceased spouse; or
- (d) the claimant’s partner’s deceased spouse,

by the Japanese during the Second World War, an amount equal to that payment.

**14.—(1)** Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a claimant’s partner where one of the partners—

- (a) is a diagnosed person;
- (b) was a diagnosed person’s partner at the time of the diagnosed person’s death;
- (c) is a parent of a diagnosed person, a person acting in place of the diagnosed person’s parents or a person who was so acting at the date of the diagnosed person’s death.

(2) Where—

- (a) sub-paragraph (1)(a) or (b) applies, it shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which the partner dies;
- (b) sub-paragraph (1)(c) applies, it shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date.

(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 a claimant or a claimant's partner where one of the partners—

- (a) is the diagnosed person;
  - (b) was a diagnosed person's partner at the date of the diagnosed person's death; or
  - (c) is a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.
- (4) Where—
- (a) sub-paragraph (3)(a) or (b) applies, it shall apply for the period beginning on the date on which the payment is made and ending on the date on which the partner dies;
  - (b) sub-paragraph (3)(c) applies, it shall apply for the period beginning on the date on which the payment is made and ending two years after that date.
- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
  - (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person being in a care home.

- (6) In this paragraph—
- “diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;
- “relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
- “trust payment” means a payment under a relevant trust.

**15.** The amount of any payment, other than a war disablement pension or a war widow's or widower's pension, to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or the claimant's partner's deceased spouse—

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.

- 16.—(1)** Any payment made under—
- (a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust (collectively referred to in this paragraph as “the Trusts”); or
  - (b) the Independent Living Funds.

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

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former partner from whom he is not, or where that person has died was not, estranged or divorced.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was 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 the person who is suffering from haemophilia or who is a qualifying person.

(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 who is or had been a member of that person's household; 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 or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,
 but only for a period from the date of the payment until the end of two 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 who was or had been a member of his household; 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 or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,
 but only for a period of two years from the relevant date.

but only for a period of two 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) In this paragraph—

"course of study" means any course of study, whether or not it is a sandwich course and whether or not a grant is made for undertaking or attending it;

"qualifying course" means a qualifying course as defined for the purposes of Parts II and IV of the Jobseeker's Allowance Regulations 1996<sup>(26)</sup>;

"sandwich course" has the meaning given in regulation 5(2) of the Education (Student Support) Regulations 2002<sup>(27)</sup>, regulation 5(2) of the Education (Student Loans) (Scotland) Regulations 2000<sup>(28)</sup> or regulation 5(2) of the Education (Student Support) Regulations (Northern Ireland) 2002<sup>(29)</sup>, as the case may be;

<sup>(26)</sup> S.I. 1996/207.

<sup>(27)</sup> S.I. 2002/195.

<sup>(28)</sup> S.S.I. 2000/200.

<sup>(29)</sup> S.R. 2002/224.

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“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973(30) or is training as a teacher.

**17.—**(1) An amount equal to the amount of any payment made in consequence of any personal injury to the claimant or, if the claimant has a partner, to the partner.

(2) Where the whole or part of the payment is administered—

- (a) by the High Court under the provisions of Order 80 of the Rules of the Supreme Court 1965(31), the County Court under Order 10 of the County Court Rules 1981(32), or the Court of Protection;
- (b) in accordance with an order made under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(33), or under Rule 36.14 of the Ordinary Cause Rules 1993(34) or under Rule 128 of those Rules; or
- (c) in accordance with the terms of a trust established for the benefit of the claimant or his partner,

the whole of the amount so administered.

**18.** Any amount specified in paragraph 19, 20 or 21 for a period of one year beginning with the date of receipt.

**19.** Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the claimant as his home and to his personal possessions.

**20.** So much of any amounts paid to the claimant or deposited in the claimant’s name for the sole purpose of—

- (a) purchasing premises which the claimant intends to occupy as his home; or
- (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the claimant as his home.

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(30) 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part I of Schedule 7 to the Employment Act 1989 (c. 38) and by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(31) S.I. 1965/1776.

(32) S.I. 1981/1687.

(33) S.I. 1965/321.

(34) 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; the relevant amending Instrument is S.I. 1996/2167.

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- 21.—(1) Subject to sub-paragraph (3) any amount paid—
- (a) by way of arrears of benefit;
  - (b) by way of compensation for the late payment of benefit;
  - (c) in lieu of the payment of benefit;
  - (d) by a local authority (including, in relation to England, a county council), or by the National Assembly for Wales, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.
- (2) In sub-paragraph (1), “benefit” means—
- (a) attendance allowance under section 64 of the Contributions and Benefits Act;
  - (b) disability living allowance;
  - (c) income support;
  - (d) income-based jobseeker’s allowance;
  - (e) state pension credit;
  - (f) housing benefit;
  - (g) council tax benefit;
  - (h) working tax credit;
  - (i) child tax credit;
  - (j) a carer’s allowance<sup>(35)</sup>;
  - (k) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part I of Schedule 8 to the Contributions and Benefits Act;
  - (l) any amount included on account of the claimant’s exceptionally severe disablement in a war disablement pension or a war widow’s or widower’s pension.
- (3) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (4) as the “relevant sum”) and is—
- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
  - (b) received by the claimant in full on or after 14th October 2001,
- sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of housing benefit, for the remainder of that award if that is a longer period.
- (4) For the purposes of sub-paragraph (3), “the award of housing benefit” means—
- (a) the award during which the relevant sum (or the first instalment thereof where it is paid in more than one instalment) is received; and
  - (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that for any such further awards the claimant—
    - (i) is the person who received the relevant sum; or

<sup>(35)</sup> An allowance under section 70 of the Social Security Contributions and Benefits Act 1992 is known as a carer’s allowance (S.I. 2002/1457).

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(ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

22. Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.

23. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

24. The value of a right to receive income under a retirement annuity contract.

25. Any payment made to a person under regulation 11 of the Social Security (Payments to Reduce Under-occupation) Regulations 2000<sup>(36)</sup>, but only for a period of 52 weeks from the date of payment.

## PART II

### Capital disregarded only for the purposes of determining deemed income

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

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

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

29. 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 and in particular, in Scotland, any croft land on which the dwelling is situated; but only one dwelling shall be disregarded under this paragraph.

30. Where property is held under a trust, other than—

(a) a charitable trust within the meaning of the Charities Act 1993<sup>(37)</sup>; or

(b) a trust set up with any payment to which paragraph 16 of this Schedule applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the claimant or the claimant's partner, or both, that property.””

#### Textual Amendments

- F1** Sch. 2 para. 2(1A) inserted (5.10.2003) by The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2275), regs. 1(1)(a), **2(17)(a)(i)**
- F2** Sch. 2 para. 2(2)(b) omitted (5.10.2003) by virtue of The Housing Benefit and Council Tax Benefit (State Pension Credit and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2275), regs. 1(1)(a), **2(17)(a)(ii)**
- F3** Sch. 2: words in Third Schedule substituted (6.10.2003) by The Social Security (Miscellaneous Amendments) (No.2) Regulations 2003 (S.I. 2003/2279), regs. 1(b), **6(2)**

<sup>(36)</sup> S.I. 2000/637.

<sup>(37)</sup> 1993 c. 10.

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#### **Commencement Information**

**I2** [Sch. 2 para. 2](#) in force at 6.10.2003, see [reg. 1\(1\)\(b\)](#)



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**Changes and effects yet to be applied to :**

- Sch. 2 revoked by [S.I. 2006/217 Sch. 1](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 2 First Sch. words inserted by [S.I. 2003/2634 reg. 4\(3\)\(a\)](#)
- Sch. 2 First Sch. words inserted by [S.I. 2003/2634 reg. 4\(3\)\(b\)\(iv\)](#)
- Sch. 2 First Sch. words omitted by [S.I. 2003/2634 reg. 4\(3\)\(b\)\(i\)](#)
- Sch. 2 First Sch. words omitted by [S.I. 2003/2634 reg. 4\(3\)\(b\)\(iii\)](#)
- Sch. 2 First Sch. words substituted by [S.I. 2003/2634 reg. 4\(3\)\(b\)\(ii\)](#)
- Sch. 2 First Sch. words substituted by [S.I. 2003/2634 reg. 4\(3\)\(b\)\(iii\)](#)
- Sch. 2 Second Sch. words substituted by [S.I. 2003/2634 reg. 4\(4\)](#)