

SCHEDULE 5

Regulation 33(9)

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, widower or surviving civil partner under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(1) insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865(2) or the Pensions and Yeomanry Pay Act 1884(3), or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(4) and any power of Her Majesty otherwise than under an enactment to make provision 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 guaranteed income payment;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) 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(5) (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 (6) 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(7) (pensions to widows, widowers or surviving civil partners).

5. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(8) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

6.—(1) Any payment which is—

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- (1) S.I. 1983/883
 - (2) 1865 c. 73.
 - (3) 47 & 48 Vict. c. 55.
 - (4) 1977 c. 5.
 - (5) S.I. 1983/883; article 26A was added by S.I. 1983/1116 and amended by S.I. 1983/1116, 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286, and 2001/409.
 - (6) S.I. 1983/686; by amended by S.I. 1983/1164 and 1540 and 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420.
 - (7) S.I. 1983/883; the relevant amending Instruments are S.I. 1993/598, 1994/1906, 2002/792 and 2005/1471.
 - (8) S.I. 1983/686; the relevant amending Instruments are S.I. 1994/715 and 1994/2021.

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- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner 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, widowers or surviving civil partners).

(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 Act(9).

8. £15 of any widowed mother’s allowance to which the claimant is entitled under section 37 of the Act(10).

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;

(9) Section 39A was inserted by section 55 of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by section 47 of and Schedule 3 to the Tax Credits Act 2002 (c. 21) and sections 254(1) and 261(4) of and Schedules 24 and 30 to the Civil Partnership Act 2004 (c. 33).

(10) Section 37 was amended by section 47 of and Schedule 3 to the Tax Credits Act 2002 (c. 21), section 254(1) of and Schedule 24 to the Civil Partnership Act 2004 (c. 33) and section 1(3) of and Schedule 1 to the Child Benefit Act 2005 (c. 6).

- (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⁽¹¹⁾ (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.

(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 or 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 2 to the State Pension Credit Regulations 2002⁽¹²⁾.

(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 (g), £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 (g), £5 or the whole payment if it is less than £5;
 - (ii) he has a disregard under paragraph 1(a) to (g), nil.

(4) For the purposes of this paragraph—

“ordinary clothing and footwear” means clothing or 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 these Regulations less any deductions in respect of non-dependants which fall to be made under regulation 55 (non-dependant deductions).

13. Any increase in pension under Part 4 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁽¹³⁾ paid in respect of a dependent other than the pensioner's spouse or civil partner.

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.

⁽¹¹⁾ 1988 c. 1; subsection (1A) was inserted by the Finance Act 1994 (c. 9).

⁽¹²⁾ S.I. 2002/1792; the relevant amending instruments are S.I. 2002/3019, and 2002/3197 and S.I. 2003/1195 and 2003/2274, 2004/2327 and 2000/2825 and 2005/522.

⁽¹³⁾ S.I. 1983/883.

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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, or pursuant to regulations made under powers conferred, by section 1 or 2 of the Education Act 1962⁽¹⁴⁾, or section 22 of the Teaching and Higher Education Act 1998⁽¹⁵⁾, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980⁽¹⁶⁾, 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
- (c) 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 an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980⁽¹⁷⁾, 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, civil partner, former spouse or former civil partner or the claimant's partner's spouse, civil partner, former spouse, or former civil partner.

⁽¹⁴⁾ 1962 c. 12, section 1 was amended by the Education Act 1996 (c. 56), Schedule 37, paragraph 4.

⁽¹⁵⁾ 1998 c. 30.

⁽¹⁶⁾ 1980 c. 44.

⁽¹⁷⁾ 1980 c. 44.

(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 4, where the claimant is a person who satisfies the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £14.50.

22. Except in the case of income from capital specified in Part 2 of Schedule 6, any actual income from capital.

23. Any special war widows payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865⁽¹⁸⁾;
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977;
- (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917⁽¹⁹⁾;
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980⁽²⁰⁾;
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980;

and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.

24. Where the total value of any capital specified in Part 2 of Schedule 6 does not exceed—

- (a) in the case of a claimant residing permanently in accommodation to which regulation 29(6) applies, £10,000; or
- (b) in any other case, £6,000,

any income actually derived from such capital.

⁽¹⁸⁾ 1865 c. 73.

⁽¹⁹⁾ 1917 c. 51, Queen’s Regulations for the Royal Air Force are available from HMSO.

⁽²⁰⁾ 1980 c. 9.