

SCHEDULE 5

Regulation 38(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 19 (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 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 owned by the claimant occupied in whole or in part by a partner or relative of any member of the family where that person is either aged 60 or over or incapacitated.

5. Where a claimant is on income support, the whole of his capital.

6. Any reversionary interest.

7. 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.

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

(a) any payment specified in paragraphs 5, 7 or 8 of Schedule 4;

(b) an income-related benefit or supplementary benefit, family income supplement under the Family Income Supplement Act 1970(1) or housing benefit under Part II of the Social Security and Housing Benefits Act 1982,

but only for a period of 52 weeks from the date of the receipt of 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 improvement 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 effect the repairs, replacement or improvement.

10. Any sum—

(1) 1970 c. 55.

Status: This is the original version (as it was originally made).

- (a) deposited with a housing association as defined in section 189(1) of the Housing Associations Act 1985(2) or section 338(1) of the Housing (Scotland) Act 1987(3) 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 may be reasonable in the circumstances to enable the claimant 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 housing benefit or to increase the amount of that benefit.

12. The value of the right to receive any income under an annuity or 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, for a period of 2 years or such longer period as is reasonable in the circumstances beginning—

- (a) if, at the date of the payment the claimant or his partner is in receipt of an income-related benefit, on that date;
- (b) in any other case, on the date on which an income-related benefit is first payable to the claimant or his partner after the date of the payment,

but, for the purposes of regulations 16, 17 and 36(2) (applicable amounts, polygamous marriage and modifications in respect of children and young persons), in calculating the capital of a child or young person there shall be no limit as to the period of disregard under this paragraph.

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 9 of Schedule 3 or paragraph 22 of Schedule 4.

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 under section 1 of the Child Care Act 1980 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 (duty of local authorities to promote welfare of children).

19. Any social fund payment.

20. Any refund of tax which falls to be deducted under section 26 of the Finance Act 1982(4) (deduction 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.

21. Any capital which by virtue of regulation 34 (capital treated as income) is to be treated as income.

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

(2) 1985 c. 69.

(3) 1987 c. 26.

(4) 1982 c. 39.