

## SCHEDULE 4

Regulation 33(2)

### CAPITAL TO BE DISREGARDED

1. The dwelling or building to which the application relates.
2. Any one dwelling normally occupied by the relevant person as his only or main residence 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 17 (determination of income and capital of members of relevant person's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.
3. Any dwelling which the relevant person intends to occupy as his only or main residence and—
  - (a) which he acquires for occupation, and intends to occupy as such residence within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the relevant person to obtain possession and commence occupation, or
  - (b) 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, or
  - (c) to which essential repairs or alterations are required in order to render it fit for such occupation, for such period as is necessary to enable those repairs or alterations to be carried out,but, notwithstanding regulation 17 (determination of income and capital of members of relevant person's family and of a polygamous marriage) only one dwelling shall be disregarded under this paragraph.
- 4.—(1) Subject to sub-paragraph (2), any sum directly attributable to the proceeds of sale of any dwelling formerly occupied by the relevant person as his only or main residence to the extent to which it is to be used for the purchase of either—
  - (a) the dwelling or building to which the application relates, or
  - (b) any dwelling, other than that to which the application relates, which is 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 relevant person to complete the purchase.(2) Sub-paragraph (1) shall not apply where a dwelling is disregarded under paragraph 26, and sub-paragraph (1)(b) shall not apply where a dwelling is disregarded under paragraph 3.
5. Any dwelling occupied in whole or in part as his only or main residence—
  - (a) by a partner, close relative, grandparent, grandchild, uncle, aunt, nephew or niece of a relevant person who is single or of any member of the family of the relevant person where that person is either aged 60 or over or incapacitated;
  - (b) by the former partner of the relevant person; but this provision shall not apply where the former partner is a person from whom the relevant person is estranged or divorced.
6. Where a relevant person is in receipt of income support or an income-based jobseeker's allowance, the whole of his capital.
7. Any future interest in property of any kind, other than land or premises in respect of which the relevant person has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

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**8.—(1)** The assets of any business owned in whole or in part by the relevant person 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.

(2) The assets of any business owned in whole or in part by the relevant person where—

- (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.

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

- (a) any payment specified in paragraph 5, 7 or 8 of Schedule 3;
- (b) an income-related benefit or supplementary benefit, family income supplement under the Family Income Supplements Act 1970(1) or housing benefit under Part II of the Social Security and Housing Benefits Act 1982(2);
- (c) an income-based jobseeker's allowance; or
- (d) any earnings top-up.

**10.—(1)** Subject to sub-paragraph (2), any sum—

- (a) paid to the relevant person in consequence of damage to or loss of his only or main residence or any personal possession and intended for its repair or replacement; or
- (b) acquired by the relevant person (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to his only or main residence,

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.

(2) A sum to which sub-paragraph 1(b) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

**11.** Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985(3) as a condition of occupying the only or main residence;
- (b) which was so deposited and which is to be used for the purchase of another dwelling being the only or main residence, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the relevant person to complete the purchase.

**12.** Any personal possessions except those which have been acquired by the relevant person with the intention of reducing his capital in order to increase the amount of grant.

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

**14.—(1)** Subject to sub-paragraph (2), where the funds of a trust are derived from a payment made in consequence of any personal injury to the relevant person, the value of the trust fund and the value of the right to receive any payment under that trust.

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(1) 1970 c. 55.  
(2) 1982 c. 24.  
(3) 1985 c. 69.

(2) Any value to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it does not represent funds or a payment which are for carrying out works to which the application relates.

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

16. The value of the right to receive any income which is disregarded under paragraph 13 of Schedule 2 or paragraph 21 of Schedule 3.

17. The surrender value of any policy of life insurance.

18. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

19. Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989(4) or, as the case may be, section 12, 24, or 26 of the Social Work (Scotland) Act 1968(5) (provision of services for children and their families and advice and assistance to certain children).

20. Any social fund payment.

21. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988(6) (mortgage interest payable under deduction of tax) on a payment of relevant loan interest for the purpose of acquiring an interest in the only or main residence or carrying out repairs or improvements to that residence.

22. Any capital which by virtue of regulation 30, 32(5) or 46 (capital treated as income, modifications in respect of children and young persons, and treatment of student loans) is to be treated as income.

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

24.—(1) Any payment made under the MacFarlane Trusts, the Independent Living Funds or the Fund.

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

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.

(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 MacFarlane Trusts or the Fund and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;

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(4) 1989 c. 41; section 17 was amended by the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21), section 7 and Schedule 3, and by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 4 and Schedule 2; section 24 was amended by the National Health Service and Community Care Act 1990 (c. 19), section 66 and Schedules 9 and 10, and by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 16.

(5) 1968 c. 49.

(6) 1988 c. 1; section 369 was amended by the Finance Act 1991 (c. 31), section 27 and the Finance (No. 2) Act 1992 (c. 48), section 19.

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- (b) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.
- (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 MacFarlane Trusts or the Fund, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; 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, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

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 MacFarlane Trusts or the Fund, 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 or young person who was or had been a member of his family; 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, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

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 MacFarlane Trusts or the Fund.

**25.**—(1) Where a relevant person has ceased to occupy what was formerly the dwelling occupied as the only or main residence 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 by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes 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.

**26.** Any premises where the relevant person is taking reasonable steps to dispose of 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.

**27.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**28.** Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983(7).

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(7) [S.I. 1983/1399](#).

- 29.** The value of the right to receive an occupational or personal pension.
- 30.** The value of any funds held under a personal pension scheme or retirement annuity contract.
- 31.** The value of the right to receive any rent except where the relevant person has a reversionary interest in the property in respect of which rent is due.
- 32.** Any payment in kind made by a charity or under the MacFarlane (Special Payments) Trust, the MacFarlane (Special Payments) (No. 2) Trust, the Fund, or the Independent Living (1993) Fund.
- 33.** £200 of any payment or, if the payment is less than £200, the whole of any payment, made under section 2 of the Employment and Training Act 1973(**8**) (functions of the Secretary of State) or under section 2 of the Enterprise and New Towns (Scotland) Act 1990(**9**) (functions in relation to training for employment etc) as a training bonus to a person participating in arrangements for training made under either of those sections.
- 34.** Any housing benefit, or housing benefit in the form of a community charge rebate.
- 35.** Any community charge benefit.
- 36.** Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988(**10**) or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(**11**) (reduction of liability for personal community charge) or reduction of council tax either under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992(**12**) (reduction of liability for council tax).
- 37.**—(1) Subject to sub-paragraph (2), any grant made to the relevant person in accordance with a scheme made under section 129 of the Housing Act 1988(**13**) or section 66 of the Housing (Scotland) Act 1988(**14**) (schemes for payments to assist local authority tenants to obtain other accommodation) which is to be used—
- (a) to purchase premises intended for occupation as his only or main residence; or
  - (b) to carry out repairs or alterations which are required to render premises fit for such occupation,
- for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the relevant person to commence such occupation.
- (2) A grant to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.
- 38.** Any arrears of special war widows payment which is disregarded under paragraph 40 of Schedule 3 (sums to be disregarded in the determination of income other than earnings) or of any amount which is disregarded under paragraph 51, 52 or 53 of that Schedule.
- 39.**—(1) Any payment or repayment made—

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(8) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25, and repealed in part by the Employment Act 1989 (c. 38), section 29 and Schedule 7.

(9) 1990 c. 35.

(10) 1988 c. 41; section 13A was inserted by paragraphs 1, 5 and 79(3) of Schedule 5 to the 1989 Act and was repealed, with savings, by the Local Government Finance Act 1992 (c. 14), section 117(2) and Schedule 14.

(11) 1987 c. 47; section 9A was inserted by section 143 of the 1989 Act and was repealed, with savings, by the Local Government Finance Act 1992 (c. 14), section 117(2) and Schedule 14.

(12) 1992 c. 14.

(13) 1988 c. 50.

(14) 1988 c. 43; section 129(5)(a) and (b) was repealed by section 194 of, and Schedule 12, to the 1989 Act.

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- (a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(15) (travelling expenses and health service supplies);
  - (b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(16) (travelling expenses and health service supplies).
- (2) Any payment or repayment by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales which is analogous to a payment or repayment mentioned in sub-paragraph (1).
40. Any payment made under regulations 9 to 11 or regulation 13 of the Welfare Food Regulations 1988(17) (payments made in place of milk tokens or the supply of vitamins).
41. Any payment made either by the Secretary of State for the Home Department or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody.
42. Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.
43. Any payment (other than a training allowance, or a training bonus under section 2 of the Employment and Training Act 1973) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(18) or in accordance with arrangements made under section 2 of the Employment and Training Act 1973 to assist disabled persons to obtain or retain employment despite their disability.
44. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(19) to homeworkers assisted under the Blind Homeworkers' Scheme.
45. Any council tax benefit, including any amount of council tax benefit to which a person is entitled by virtue of regulation 4D of the Council Tax Benefit (General) Regulations 1992(20) (entitlement of a refugee to council tax benefit).
46. Any sum of capital administered on behalf of a person under the age of 18 by the High Court under the provisions of Order 80 of the Rules of the Supreme Court 1965(21), the county court under Order 10 of the County Court Rules 1981(22), or the Court of Protection, where such sum derives from—
- (a) an award of damages for a personal injury to that person; or
  - (b) compensation for the death of one or both parents.
47. Any sum of capital administered on behalf of a person under the age of 18 in accordance with an order made under Rule 43.15 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(23) or under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment)

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(15) S.I. 1988/551, relevant amending instruments are S.I. 1990/918, 1991/557 and 1992/1104.

(16) S.I. 1988/546; relevant amending instruments are S.I. 1989/393, 1990/551, 1990/917, and 1991/575.

(17) S.I. 1988/536; regulation 9A was inserted by S.I. 1990/3, and regulation 10 was amended by S.I. 1990/571 and 1991/585.

(18) 1994 c. 10.

(19) 1958 c. 33; section 3 was amended by the Local Authority Social Services Act 1970 (c. 42), section 14 and Schedule 3; the Local Government Act 1972 (c. 70), sections 195 and 272 and Schedules 23 and 30; the National Health Service Act 1979 (c. 49), section 129 and Schedule 15; and the Local Government Act 1985 (c. 51), section 102 and Schedule 17.

(20) S.I. 1992/1814; regulation 4D was inserted by S.I. 1996/2432.

(21) S.I. 1965/1776; for Order 80 as currently in force *see* "The Supreme Court Practice 1997", ISBN 0-421-57620-0.

(22) S.I. 1981/1687; for Order 10 as currently in force *see* "The County Court Practice 1996", ISBN 0-406-06506-3; or "The Supreme Court Practice 1997: County Court Rules: 1997 Edition", ISBN 0-421-586-303.

(23) S.I. 1994/1443.

1965(24), or under Rule 36.14 of the Ordinary Cause Rules 1993(25), or under Rule 128 of the Ordinary Cause Rules(26) where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

**48.** Any payment to the relevant person as holder of the Victoria Cross or George Cross.

**49.** Any back to work bonus payable by way of a jobseeker's allowance or income support in accordance with section 26 of the Jobseeker's Act 1995(27), or a corresponding payment under article 28 of the Jobseekers (Northern Ireland) Order 1995(28).

**50.** Any amount of housing benefit to which a person is entitled by virtue of regulation 7B of the Housing Benefit (General) Regulations 1987(29).

**51.** Any amount of income support to which a person is entitled by virtue of regulation 21ZA of the Income Support (General) Regulations 1987(30) (treatment of refugees).

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(24) S.I. 1965/321.

(25) 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.

(26) First Schedule to the Sheriff Courts (Scotland) Act 1907 as substituted by S.I. 1983/747.

(27) 1995 c. 18.

(28) S.I. 1995/2705 (N.I. 15).

(29) S.I. 1987/1971; regulation 7B was inserted by S.I. 1996/2432.

(30) S.I. 1987/1967; regulation 21ZA was inserted by S.I. 1996/2431.