

SCHEDULE

PART I

AMENDMENTS TO THE INCOME SUPPORT (GENERAL) REGULATIONS 1987

1. In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) for the definition of “nursing home” and “residential care home” there shall be substituted the following definitions—

““nursing home” means—

- (a) premises which are a nursing home or mental nursing home within the meaning of the Registered Homes Act 1984⁽¹⁾ and which are either registered under Part II of that Act or exempt from registration under section 37 thereof (power to exempt Christian Science Homes); or
- (b) any premises used or intended to be used for the reception of such persons or the provision of such nursing or services as is mentioned in any paragraph of subsection (1) of section 21 or section 22(1) of the Registered Homes Act 1984 (meaning of nursing home or mental nursing home) or, in Scotland, as are mentioned in section 10(2) of the Nursing Homes Registration (Scotland) Act 1938⁽²⁾ (interpretation) and which are maintained or controlled by a body instituted by special Act of Parliament or incorporated by Royal Charter;
- (c) in Scotland—
- (i) premises which are a nursing home within the meaning of section 10 of the Nursing Homes Registration (Scotland) Act 1938 which are either registered under that Act or exempt from registration under section 6 or 7 thereof (general power to exempt homes and power to exempt Christian Science Homes);
- (ii) premises which are a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984⁽³⁾ (private hospitals), and which are registered under that Act;”;

““residential care home” means an establishment—

- (a) which is required to be registered under Part I of the Registered Homes Act 1984 and is so registered, or is deemed to be registered under section 2(3) of the Registered Homes (Amendment) Act 1991⁽⁴⁾ (which refers to the registration of small homes where the application for registration has not been determined); or
- (b) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or

(1) 1984 c. 23.

(2) 1938 c. 73; section 10 was amended by section 15 of the Mental Health (Scotland) Act 1960 (c. 61) and that amendment is preserved notwithstanding the repeal of that 1960 Act by section 126(1)(a) of the Mental Health (Scotland) Act 1984 (c. 36). Section 10 was also amended by Schedule 7 to the National Health Service (Scotland) Act 1972 (c. 58), Schedules 7 and 8 of the Nurses, Midwives and Health Visitors Act 1979 (c. 36) and by Schedule 7 to the Health Services Act 1980 (c. 53) and subsection (2) of that section 10 was added by section 26 of, and paragraph 14 of Schedule 4 to, the Health Services Act 1980.

(3) 1984 c. 36.

(4) 1991 c. 20.

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- (c) which provides residential accommodation with both board and personal care and is managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority; or
 - (d) in Scotland, which is a home registered under section 61 of the Social Work (Scotland) Act 1968⁽⁵⁾ or is an establishment provided by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988⁽⁶⁾ which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968; or
 - (e) which is exempt from registration under Part I of the Registered Homes Act 1984 pursuant to section 1(4)(a) of that Act (exemption from registration in respect of certain homes) because one or more of the residents are treated as relatives pursuant to section 19(4) of that Act;
and in paragraph (c) of this definition, “personal care” means personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;”;
 - (ii) in the definition of “residential accommodation”, the words “regulation 19 and” shall be omitted;
 - (iii) the definition of “preserved right” shall be omitted;
 - (b) after paragraph (1), there shall be inserted the following paragraph—
 - “(1A) For the purposes of these Regulations, where a person’s principal place of residence is a residential care home or a nursing home and he is temporarily absent from that home, he shall be regarded as continuing to reside in that home—
 - (a) where he is absent because he is a patient, for the first six weeks of any such period of absence and for this purpose—
 - (i) “patient” has the meaning it has in Schedule 7 by virtue of regulation 21(3); and
 - (ii) periods of absence separated by not more than 28 days shall be treated as a single period of absence equal in duration to all those periods; and
 - (b) for the first three weeks of any other period of absence.”.
2. For regulation 6(4)(d)(7) (persons not treated as in remunerative work), there shall be substituted the following sub-paragraph—
“(d) a person who is in employment, who lives in, or is temporarily absent from, a residential care home, a nursing home or residential accommodation and who requires personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness.”.
3. In regulation 17(4)(a)(iii) (applicable amounts), for “(d)” there shall be substituted “(c)”.
4. In regulation 18(1)(8) (polygamous marriages), for the words “regulations 19” there shall be substituted the words “regulations 21”.
5. Regulation 19 (applicable amounts for persons in residential care and nursing homes) shall be omitted.

(5) 1968 c. 49; section 61 was amended by the Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289C and 289G and Schedule 7C.

(6) 1988 c. 43.

(7) Regulation 6(4) was added by S.I.2000/681.

(8) The relevant amending instrument is S.I.1988/1228.

6. In regulation 21 (special cases)—
 - (a) in paragraph (1), after the words “Subject to” there shall be inserted the words “paragraph (1B),”;
 - (b) after paragraph (1A) there shall be inserted the following paragraph—

“(1B) An amount shall only be applicable under paragraph 10A, 10B, 10C or 13 of Schedule 7 where an amount was applicable to a person under any of those paragraphs on 7th April 2002 and shall only continue to be applicable to that person after that date for so long as the relevant conditions in column (1) of that Schedule continue to apply to him.”;
 - (c) in paragraph (3A)(9) the words “within the meaning of regulation 19 (applicable amounts for persons in residential care and nursing homes)” shall be omitted.
7. In regulation 22A(1)(10) (reduction in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work), sub-paragraph (b) shall be omitted.
8. In regulation 51 (notional capital)—
 - (a) in paragraph (3)(a)(ii)(11)—
 - (i) for the words “is payable,” there shall be substituted the words “is payable or”;
 - (ii) the words “or accommodation charge to the extent that it is met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.
9. In regulation 53(1C)(a)(i)(12) (calculation of tariff income from capital), the words “in the case of a claimant referred to in regulation 19(2) or” shall be omitted.
10. In regulation 66B(3)(13) (treatment of payments from access funds)—
 - (a) for the words “, any housing costs” there shall be substituted the words “or any housing costs”;
 - (b) the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.
11. In regulation 68(3)(14) (income treated as capital)—
 - (a) for the words “, any housing costs” there shall be substituted the words “or any housing costs”;
 - (b) the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.
12. In regulation 71 (applicable amounts in urgent cases)—
 - (a) paragraph (1)(b) shall be omitted;
 - (b) in paragraph (1)(c), after the words “applicable amount shall” there shall be inserted the words “, subject to paragraph (1A),”;
 - (c) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Paragraph (1)(c) shall only apply where the claimant was resident in residential accommodation on 7th April 2002 and shall only continue to apply to that claimant after that date for so long as he continues to be resident in such accommodation.”.
13. In regulation 73 (amount of income support payable)—

(9) Paragraph (3A) was inserted by [S.I.1991/1656](#).

(10) Regulation 22A was added by [S.I.1996/206](#).

(11) The relevant amending instruments are [S.I.1988/1445](#), [1989/534](#) and [1991/1559](#).

(12) Regulation 53(1C) was inserted by [S.I.1996/462](#).

(13) Regulation 66B was inserted by [S.I. 2000/1922](#).

(14) Regulation 68(3) was inserted by [S.I. 2000/1922](#).

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- (a) in paragraph (3), in “A”, the words “subject to paragraph (4),” shall be omitted;
 - (b) paragraphs (2), (4) and (5) shall be omitted.
- 14.** In paragraph 2A of Schedule 2(**15**) (applicable amounts: residential allowance)—
- (a) in sub-paragraph (1), after the word “shall” there shall be inserted the words “,subject to sub-paragraph (6),”;
 - (b) in sub-paragraph (2)—
 - (i) for “(3), (4) and (4A)” there shall be substituted “(3) and (4)”;
 - (ii) in paragraph (a), the words “or is regarded pursuant to sub-paragraph (4A) as residing in such a home” shall be omitted;
 - (iii) paragraph (b) shall be omitted;
 - (c) in sub-paragraph (3), for the words “for the purposes of regulation 19” there shall be substituted the words “within the meaning of regulation 2(1)”;
 - (d) sub-paragraph (4A) shall be omitted;
 - (e) after sub-paragraph (5) there shall be added the following sub-paragraph—

“(6) An amount shall only be applicable under this paragraph where an amount was applicable to a person under this paragraph on 7th April 2002 and shall only continue to be applicable to that person after that date for so long as he continues to satisfy the conditions specified in sub-paragraph (2).”.
- 15.** In paragraph 3(13)(c)(iii) of Schedule 3(**16**) (housing costs), for the words “regulation 19(3) (provision of residential care or nursing homes)” there shall be substituted the words “regulation 2(1)”.
- 16.** Schedule 4 (applicable amounts of persons in residential care and nursing homes) shall be omitted.
- 17.** In Schedule 7 (applicable amounts in special cases)—
- (a) in column (1) of paragraph 10A(**17**) for the words “(d) (excluding heads (i) and (ii) of sub-paragraph (d))” there shall be substituted “(c)”;
 - (b) in paragraph 10B(1)(**18**)—
 - (i) in column (1), for the words “(d) (excluding heads (i) and (ii) of sub-paragraph (d))” there shall be substituted “(c)”;
 - (ii) in column (2), “, 19” shall be omitted;
 - (c) in column (2) of paragraph 11(**19**), “or 19” shall be omitted in both places where it appears;
 - (d) in column (2) of paragraph 11A(**20**), “, 19” shall be omitted in both places where it appears;
 - (e) in column (2) of paragraph 13A, in sub-paragraph (3A)(**21**), for the words from “the aggregate” to the end of the sub-paragraph, there shall be substituted “£16.05”;
 - (f) paragraph 16 shall be omitted;
 - (g) in column (2) of paragraph 16A(**22**) “19 or” shall be omitted in both places where it appears;

(15) Paragraph 2A was inserted by [S.I.1992/3147](#).

(16) Schedule 3 was substituted by [S.I.1995/1613](#).

(17) Paragraph 10A was inserted by [S.I.1988/663](#).

(18) Paragraph 10B was inserted by [S.I.1988/663](#).

(19) The relevant amending instrument is [S.I.1989/534](#).

(20) Paragraph 11A was inserted by [S.I.1990/547](#).

(21) Paragraph 13A was inserted by [S.I.1989/1678](#); paragraph (3A) was inserted by [S.I.1995/516](#).

(22) Paragraph 16A was inserted by [S.I. 2000/636](#).

(h) paragraph 18 shall be omitted.

18. In Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 4(2), (3)(a)(ii) and (4)(a)(**23**), the words “or in accommodation in a residential care home or nursing home” shall be omitted;
- (b) in paragraph 15(a)(**24**), the words “, or but for his accommodation in a residential care home or nursing home would be,” shall be omitted.

19. In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 9(**25**), the words “Part I of Schedule 4 or” shall be omitted;
- (b) in paragraph 15(**26**)—
 - (i) in sub-paragraph (2)—
 - (aa) for the words “sub-paragraphs (3) and (6)” there shall be substituted the words “sub-paragraph (3)”;
 - (bb) for the words “housing benefit is payable,” there shall be substituted the words “housing benefit is payable or”;
 - (cc) the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted;
 - (ii) sub-paragraph (6) shall be omitted;
- (c) paragraph 15A(3)(**27**) shall be omitted;
- (d) for paragraph 15B(1)(a)(**28**) there shall be substituted the following sub-paragraph—
 - “(a) is a person to whom paragraph 13A or 13B of Schedule 7 (applicable amounts in special cases) applies;”;
- (e) in paragraph 30(1)(e), for the words “increased, where appropriate, in accordance with paragraph 2 of Schedule 4 exceeds the amount determined in accordance with regulation 19 (residential care and nursing homes) or” there shall be substituted the word “exceeds”;
- (f) in paragraph 30A(**29**)—
 - (i) in sub-paragraph (2), the words “, or whose applicable amount falls to be calculated in accordance with regulation 19” shall be omitted;
 - (ii) for sub-paragraph (3)(a), there shall be substituted the following—
 - “(a) the claimant’s applicable amount; and”;
- (g) in paragraph 59(2)(**30**), the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted;
- (h) in paragraph 69(2)(**31**), the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

(23) Paragraph 4 was substituted by [S.I.1989/534](#).

(24) The relevant amending instrument is [S.I.1989/534](#).

(25) Paragraph 9 was substituted by [S.I.1993/518](#) and amended by [S.I.1995/2203](#).

(26) The relevant amending instruments are [S.I.1991/1559](#), [1993/2119](#) and [1994/527](#).

(27) Paragraph 15A was inserted by [S.I.1993/518](#).

(28) Paragraph 15B was inserted by [S.I.1996/606](#).

(29) Paragraph 30A was inserted by [S.I.1993/2119](#).

(30) Paragraph 59 was inserted by [S.I.1997/65](#).

(31) Paragraph 69 was inserted by [S.I.1999/2165](#).

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20. In paragraph 56(2) of Schedule 10(**32**) (capital to be disregarded), the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

(32) Paragraph 56 was inserted by [S.I.1999/2165](#).