

## SCHEDULE

### PART II

#### AMENDMENTS TO THE JOBSEEKER'S ALLOWANCE REGULATIONS 1996

1. In regulation 1 (interpretation)—
  - (a) in paragraph (3), the definition of “preserved rights” shall be omitted;
  - (b) after paragraph (3E), there shall be inserted the following paragraph—

“(3F) 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 5 by virtue of regulation 85; 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 53(c) (persons not treated as engaged in remunerative work) there shall be substituted the following paragraph—

“(c) he is in employment, lives in, or is temporarily absent from, a residential care home, a nursing home or residential accommodation and 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 82(1) (income-based jobseeker’s allowance)—
  - (a) in paragraph (1), for “86” there shall be substituted “85”;
  - (b) in paragraph (2), for “86D” there shall be substituted “86C”.
4. In regulation 83 (applicable amounts), “or 86” shall be omitted.
5. In regulation 84(1) (polygamous marriages), for “85” there shall be substituted “or 85” and the words “or 86” and “and for those in residential care and nursing homes” shall be omitted.
6. In regulation 85 (special cases)—
  - (a) at the beginning of paragraph (1), there shall be inserted the words “subject to paragraph (2A),”;
  - (b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) An amount shall only be applicable under paragraph 7, 8, 9 or 15 of Schedule 5 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.”.
7. Regulation 86 (applicable amounts for persons in residential care and nursing homes) shall be omitted.

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(1) Regulation 82 was substituted by S.I.2000/1978.

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**8.** In both regulations 86A (applicable amounts for joint-claim couples) and 86B(2) (applicable amounts for joint-claim couples: polygamous marriages), for “, 86C” there shall be substituted “or 86C” and the words “or 86D (members of joint-claim couples in residential care and nursing homes)” shall be omitted.

**9.** In regulation 86C (joint-claim couples: special cases)—

(a) at the beginning of paragraph (1), there shall be inserted the words “Subject to paragraph (2A),”;

(b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) An amount shall only be applicable under paragraph 6 or 9 of Schedule 5A where an amount was applicable to a joint-claim couple under either of those paragraphs on 7th April 2002 and shall only continue to be applicable to that couple after that date for so long as the relevant conditions in column (1) of that Schedule continue to apply to that couple.”.

**10.** Regulation 86D (applicable amount for a joint-claim couple where a member is in residential care or a nursing home) shall be omitted.

**11.** In regulation 113 (notional capital)—

(a) in paragraph (3)(a)(ii)—

(i) for the words “is payable,” there shall be substituted the words “is payable”;

(ii) the words “or accommodation charge to the extent that it is met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

**12.** For regulation 116(1C)(a)(3) (calculation of tariff income from capital) there shall be substituted the following sub-paragraph—

“(a) from a home or accommodation referred to in sub-paragraph (a), (b) or (d) of paragraph (1B) for a period not exceeding 13 weeks;”.

**13.** In regulation 136A(3)(4) (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 86 (persons in residential care or nursing homes)” shall be omitted.

**14.** In regulation 138(3)(5) (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 86 (persons in residential care or nursing homes)” shall be omitted.

**15.** In regulation 148 (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—

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(2) Regulations 86A and 86B were inserted by S.I. 2000/1978.

(3) Regulation 116(1C) was inserted by S.I.1996/1516.

(4) Regulation 66B was inserted by S.I. 2000/1922.

(5) Regulation 68(3) was inserted by S.I. 2000/1922.

“(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.”.

**16.** In regulation 148(6) (applicable amount in urgent cases: joint-claim couples)—

- (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 member of the joint-claim couple was resident in residential accommodation on 7th April 2002 and shall only continue to apply to that couple after that date for so long as that member continues to be resident in such accommodation.”.

**17.** Regulation 151 (amount of jobseeker’s allowance payable where a person is in a residential care or nursing home) shall be omitted.

**18.** In paragraph 3 of Schedule 1 (applicable amounts: residential allowance)—

- (a) in sub-paragraph (1), after the word “shall” there shall be inserted the words “, subject to sub-paragraph (7),”;
- (b) in sub-paragraph (2)—
  - (i) for “(3), (4) and (5)” there shall be substituted “(3) and (4)”;
  - (ii) in paragraph (a), the words “or is regarded pursuant to sub-paragraph (5) as residing in such a home” shall be omitted;
  - (iii) paragraph (c) shall be omitted;
- (c) sub-paragraph (5) shall be omitted;
- (d) after sub-paragraph (6) there shall be added the following sub-paragraph—

“(7) 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).”

**19.** Schedules 4 (applicable amounts of persons in residential care and nursing homes) and 4A (applicable amount of a joint-claim couple where a member is in a residential care or nursing home) shall be omitted.

**20.** In Schedule 5 (applicable amounts in special cases)—

- (a) in column (2) of paragraph 8(1), for “, 85 or 86” there shall be substituted “or 85”;
- (b) in column (2) of paragraph 10, “or 86” shall be omitted in both places where it appears;
- (c) in column (2) of paragraph 11, “or 86” shall be omitted in both places where it appears;
- (d) in column (2) of paragraph 13A(7), “or 86” shall be omitted in both places where it appears;
- (e) paragraphs 16 and 17 shall be omitted.

**21.** In Schedule 5A(8) (applicable amounts of joint-claim couples in special cases)—

- (a) in column (2) of paragraph 6(1), for “, 85 or 86” there shall be substituted “or 85”;

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(6) Regulation 148A was inserted by S.I. [2000/1978](#).

(7) Paragraph 13A was inserted by S.I. [2000/636](#).

(8) Schedule 5A was inserted by S.I. [2000/1978](#).

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- (b) in column (2) of paragraph 7, both “or 86D” (in both places where it appears) and “or 86” shall be omitted;
- (c) in column (2) of paragraph 8, for “86D”, in both places where it appears, there shall be substituted “86C”;
- (d) paragraphs 10 and 11 shall be omitted.

**22.** In Schedule 6 (sums to be disregarded in the calculation of earnings)—

- (a) in paragraph 5(2), (3)(a)(ii) and (4)(a), the words “or in accommodation in a residential care home or nursing home” shall be omitted;
- (b) in paragraph 18(a), the words “, or but for his accommodation in a residential care home or nursing home would be,” shall be omitted.

**23.** In paragraph 1(2), (3)(a)(ii) and (4)(a) of Schedule 6A(9) (sums to be disregarded in the calculation of earnings of members of joint-claim couples) the words “or in accommodation in a residential care home or nursing home” shall be omitted.

**24.** In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 10, the words from “, but, where” to the end of the paragraph shall be omitted;
- (b) in paragraph 15—
  - (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 86 (persons in residential care or nursing homes)” shall be omitted;
  - (ii) sub-paragraph (6) shall be omitted;
- (c) paragraph 16(3) shall be omitted;
- (d) paragraph 16A(10) shall be omitted;
- (e) in paragraph 31(1)(e), for the words “increased, where appropriate, in accordance with paragraph 2 of Schedule 4 exceeds the amount determined in accordance with regulation 86 (residential care and nursing homes) or” there shall be substituted the word “exceeds”;
- (f) in paragraph 32—
  - (i) in sub-paragraph (2), the words “, or whose applicable amount falls to be calculated in accordance with regulation 86” 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 57(2)(11), the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted;

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(9) Schedule 6A was inserted by S.I. 2000/1978.

(10) Paragraph 16A was inserted by S.I.1996/1517.

(11) Paragraph 57 was inserted by S.I.1997/65.

(h) in paragraph 67(2)(**12**), the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

**25.** In paragraph 51(2) of Schedule 8(**13**) (capital to be disregarded), the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

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(**12**) Paragraph 67 was inserted by [S.I.1999/2165](#).

(**13**) Paragraph 51 was inserted by [S.I.1999/2165](#).