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STATUTORY INSTRUMENTS

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**2003 No.1121**

**SOCIAL SECURITY**

**The Social Security (Removal of Residential Allowance  
and Miscellaneous Amendments) Regulations 2003**

<i>Made</i>	- - - -	<i>17th April 2003</i>
<i>Laid before Parliament</i>		<i>25th April 2003</i>
<i>Coming into force</i>	- -	<i>6th October 2003</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(a), 135(1), 137(1), 138(2) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1) and sections 4(5), 35(1) and 36(2) of the Jobseekers Act 1995(2) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(3), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Removal of Residential Allowance and Miscellaneous Amendments) Regulations 2003 and shall come into force on 6th October 2003.

**Amendment of the Income Support (General) Regulations 1987**

2. The Income Support (General) Regulations 1987(4) shall be amended in accordance with Schedule 1 to these Regulations.

**Amendment of the Social Fund Cold Weather Payments (General) Regulations 1988**

3.—(1) The Social Fund Cold Weather Payments (General) Regulations 1988(5) shall be amended in accordance with this regulation.

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- (1) 1992 c. 4. Section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”. Section 138(4) is cited because of the meaning ascribed to the word “prescribed”.
- (2) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.
- (3) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992; paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
- (4) S.I. 1987/1967.
- (5) S.I. 1988/1724, as amended by S.I. 1990/580, 1991/2238, 2448, 1992/2448, 1993/2450, 1995/2620, 1996/2544, 1997/2311, 1999/2781, 2000/2690, 2001/1149, 3368, 2002/2524 and 3019.

- (2) In regulation 1A(6) (prescribed description of persons)—
- (a) For “The” there shall be substituted “Subject to paragraph (3), the”;
  - (b) in sub-paragraph (i)(7) the words “, but does not include the allowance specified in paragraph 2A of that Schedule (residential allowances)” shall be omitted;
  - (c) in sub-paragraph (ia)(8) the words “but does not include the allowance specified in paragraph 3 of that Schedule (residential allowances)” shall be omitted; and
  - (d) after paragraph (2)(9) there shall be inserted the following paragraph—
    - “(3) Paragraph (1) does not apply to a person who resides in—
      - (a) a nursing home within the meaning given by regulation 2(1)(10) of the Income Support (General) Regulations 1987;
      - (b) a residential care home within the meaning given by regulation 2(1)(11) of the Income Support (General) Regulations 1987;
      - (c) residential accommodation within the meaning given by regulation 21(3)(12) of the Income Support (General) Regulations 1987; or
      - (d) accommodation provided under section 3(1) of, and Part II of the Schedule to, the Polish Resettlement Act 1947(13) (provision by the Secretary of State of accommodation in camps).”.

#### **Amendment of the Jobseeker’s Allowance Regulations 1996**

4. The Jobseeker’s Allowance Regulations 1996(14) shall be amended in accordance with Schedule 2 to these Regulations.

#### **Amendment of the Social Fund Winter Fuel Payments Regulations 2000**

5.—(1) The Social Fund Winter Fuel Payments Regulations 2000(15) shall be amended in accordance with this regulation.

- (2) In regulation 1 (citation, commencement and interpretation)—
- (a) in paragraph (2), in the definition of “nursing home” for the words “regulation 19(3) of the Income Support Regulations (applicable amounts for persons in residential care and nursing homes)” there shall be substituted the words “regulation 2(1)(16) of the Income Support Regulations (interpretation)”; and
  - (b) for paragraph (3A)(17) there shall be substituted the following paragraph—
    - “(3A) For the purposes of paragraph (3)(a)(i) “residential care home” has the meaning given to that expression by virtue of sub-paragraphs (a), (c) and (d) of that definition in regulation 2(1)(18) of the Income Support Regulations.”.

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(6) Regulation 1A was inserted by S.I. 1991/2448 and amended by S.I. 1993/2450, 1996/2544 and 2002/3019.

(7) Sub-paragraph (i) was amended by S.I. 1993/2450.

(8) Sub-paragraph (ia) was inserted by S.I. 1996/2544.

(9) Paragraph (2) is inserted by S.I. 2002/3019.

(10) The definition of “nursing home” was substituted by S.I. 2001/3767.

(11) The definition of “residential care home” was substituted by S.I. 2001/3767.

(12) The definition of “residential accommodation” was substituted by S.I. 1992/3147 and amended by S.I. 1994/2139 and 1995/516.

(13) 1947 c. 19.

(14) S.I. 1996/207.

(15) S.I. 2000/729, as amended by S.I. 2000/2864, 2001/3375 and 2002/2660.

(16) The definition of “nursing home” was substituted by S.I. 2001/3767.

(17) Paragraph (3A) was inserted by S.I. 2000/2864 and substituted by S.I. 2001/3375.

(18) The definition of “residential care home” was substituted by S.I. 2001/3767.

Signed by authority of the Secretary of State for Work and Pensions.

17th April 2003

*Maria Eagle*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

## SCHEDULE 1

Regulation 2

## AMENDMENT OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987

1. In paragraph (1) of regulation 2 (interpretation) the definition of “residential allowance”(19) shall be omitted.
2. In paragraph (1) of regulation 17 (applicable amounts) sub-paragraph (bb)(20) shall be omitted.
3. In paragraph (1) of regulation 18 (polygamous marriages) sub-paragraph (cc)(21) shall be omitted.
4. In paragraph (1B)(22) of regulation 21 (special cases) for the words “paragraph 10A, 10B, 10C or 13” there shall be substituted “paragraph 13(2)”.
5. In regulation 71 (applicable amounts in urgent cases)—
  - (a) in paragraph (1)—
    - (i) in sub-paragraph (a) head (vi)(23) shall be omitted; and
    - (ii) sub-paragraph (c)(24) shall be omitted; and
  - (b) paragraph (1A)(25) shall be omitted.
6. In Schedule 2 (applicable amounts) paragraph 2A(26) shall be omitted.
7. Schedule 3C(27) (the Greater London area) shall be omitted.
8. In Schedule 7 (applicable amounts in special cases)—
  - (a) paragraphs—
    - (i) 10A(28) (single claimants temporarily in local authority accommodation);
    - (ii) 10B(29) (couples and members of polygamous marriages where one member is or all are temporarily in local authority accommodation);
    - (iii) 10C(30) (lone parents who are in residential accommodation temporarily);
    - (iv) 13(1)(31) (persons in residential accommodation) in columns (1) and (2);
    - (v) 13A(32) (polish resettlement); and
    - (vi) 13B(33) (polish resettlement: persons temporarily absent from accommodation), shall be omitted.
9. In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
  - (a) in paragraph 9(34) the words from “, but” to the end of that paragraph shall be omitted; and

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(19) The definition of “residential allowance” was inserted by S.I. 1992/3147.

(20) Sub-paragraph (bb) was inserted by S.I. 1992/3147 and amended by S.I. 2003/455.

(21) Sub-paragraph (cc) was inserted by S.I. 1992/3147 and amended by S.I. 2003/455.

(22) Paragraph (1B) was inserted by S.I. 2001/3767.

(23) Paragraph (1)(a)(vi) was inserted by S.I. 1993/2119.

(24) Paragraph (1)(c) was amended by S.I. 1992/3147, 1993/2119, 1994/527 and 2001/3767.

(25) Paragraph (1A) was inserted by S.I. 2001/3767.

(26) Paragraph 2A was inserted by S.I. 1992/3147 and amended by S.I. 1993/518, 1993/1219, 1997/2197, 2001/3767 and 2002/668.

(27) Schedule 3C was inserted by S.I. 1992/3147 and amended by S.I. 1997/65.

(28) Paragraph 10A was inserted by S.I. 1988/663 and amended by S.I. 2001/3767 and 2002/668.

(29) Paragraph 10B was inserted by S.I. 1988/663 and amended by S.I. 2001/3767 and 2002/668.

(30) Paragraph 10C was inserted by S.I. 1988/2022 and amended by S.I. 1996/1803, 2002/668 and 2003/455.

(31) Paragraph 13 was amended by S.I. 2002/668 and 2003/455.

(32) Paragraph 13A was inserted by S.I. 1989/1678 and amended by S.I. 1995/516, 1997/2197, 2001/3767, 2002/668 and 2003/455.

(33) Paragraph 13B was inserted by S.I. 1994/2139 and amended by S.I. 1997/543.

(34) Paragraph 9 was amended by S.I. 1993/518, 1995/2303 and 2001/3767.

- (b) paragraph 15B(35) shall be omitted.

## SCHEDULE 2

Regulation 4

### AMENDMENT OF THE JOBSEEKER'S ALLOWANCE REGULATIONS 1996

1. In paragraph (3) of regulation 1(36) (citation, commencement and interpretation) the definition of “residential allowance” shall be omitted.
2. In regulation 83(37) (applicable amounts) sub-paragraph (c) shall be omitted.
3. In paragraph (1) of regulation 84(38) (polygamous marriages) sub-paragraph (d) shall be omitted.
4. In regulation 85 (special cases) paragraph (2A)(39) shall be omitted.
5. In regulation 86A(40) (applicable amounts for joint-claim couples) paragraph (b) shall be omitted.
6. In regulation 86B(41) (applicable amounts for joint-claim couples: polygamous marriages) paragraph (c) shall be omitted.
7. In regulation 148(42) (applicable amounts in urgent cases)—
  - (a) in paragraph (1)—
    - (i) sub-paragraph (a)(v); and
    - (ii) sub-paragraph (c),shall be omitted; and
  - (b) paragraph (1A)(43) shall be omitted.
8. In regulation 148A(44) (applicable amount in urgent cases: joint-claim couples)—
  - (a) in paragraph (1)—
    - (i) sub-paragraph (a)(iv); and
    - (ii) sub-paragraph (c),shall be omitted; and
  - (b) paragraph (1A)(45) shall be omitted.
9. In Schedule 1 (applicable amounts) paragraph 3(46) shall be omitted.
10. Schedule 3(47) (the Greater London Area) shall be omitted.
11. In Schedule 5 (applicable amounts in special cases)—

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(35) Paragraph 15B was inserted by S.I. 1996/606 and amended by S.I. 1997/65 and 2001/3767.

(36) To which there are amendments not relevant to these Regulations.

(37) Regulation 83 is amended by S.I. 2003/455.

(38) Regulation 84 is amended by S.I. 2003/455.

(39) Paragraph (2A) was inserted by S.I. 2001/3767.

(40) Regulation 86A was inserted by S.I. 2000/1978 and amended by S.I. 2001/3767.

(41) Regulation 86B was inserted by S.I. 2000/1978 and amended by S.I. 2001/3767 and 2003/455.

(42) The relevant amending instrument is S.I. 2001/3767.

(43) Paragraph (1A) was inserted by S.I. 2001/3767.

(44) Regulation 148A was inserted by S.I. 2000/1978 and amended by S.I. 2001/3767.

(45) Paragraph (1A) was inserted by S.I. 2001/3767.

(46) Paragraph 3 was amended by S.I. 1997/2197, 2000/1978, 2001/3767 (as amended by S.I. 2002/398) and 2002/668.

(47) Schedule 3 was amended by S.I. 1997/454.

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- (a) in column (1) of paragraph 1(48) (person other than claimant who is a patient) for the words “, 15 and 17” there shall be substituted “and 15”;
  - (b) paragraphs—
    - (i) 7(49) (single claimants temporarily in local authority accommodation);
    - (ii) 8(50) (couples and members of polygamous marriages where one member is or all are temporarily in local authority accommodation);
    - (iii) 9(51) (lone parents who are in residential accommodation temporarily),
 shall be omitted;
  - (c) in columns (1) and (2) of paragraph 15(52) (persons in residential accommodation) sub-paragraph (1) shall be omitted; and
  - (d) in column (2) of paragraph 17A(53) (joint-claim couples where a claim is made other than jointly by both members) the words “or 86” in both places shall be omitted.
- 12.** In Schedule 5A(54) (applicable amounts of joint-claim couples in special cases)—
- (a) in column (1) of paragraph 1 (patients) for the words “Subject to paragraphs 9 and 11, a” there shall be substituted “A”; and
  - (b) paragraph 9(55) (members of joint-claim couples in residential accommodation) shall be omitted.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the cessation, from 6th October 2003, of the payment of a residential allowance to recipients of income support or income-based jobseeker’s allowance who are residing in residential care homes or nursing homes. These Regulations also provide for the cessation, from 6th October 2003, of the payment of special amounts to recipients of income support or income-based jobseeker’s allowance who are in residential accommodation as defined in regulation 21(3) of the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“the Income Support Regulations”) or who are residing in accommodation provided under the Polish Resettlement Act 1947 (c. 19).

These Regulations also amend the Social Fund Cold Weather Payments (General) Regulations 1988 (S.I. 1988/1724) (“the Cold Weather Payments Regulations”) to provide that from 6th October 2003 those who are residing in residential care homes, nursing homes, residential accommodation or accommodation provided under the Polish Resettlement Act 1947 shall not be entitled to a cold weather payment under those Regulations (regulation 3).

(48) Paragraph 1 was amended by S.I. 1996/1516, 2000/636 and 2002/668.

(49) Paragraph 7 was amended by S.I. 2002/668.

(50) Paragraph 8 was amended by S.I. 1996/1516 and 2002/668.

(51) Paragraph 9 was amended by S.I. 1996/1803, 2002/668 and 2003/455.

(52) Paragraph 15 was amended by S.I. 2002/668 and 2003/455.

(53) Paragraph 17A was inserted by S.I. 2000/1978.

(54) Schedule 5A was inserted by S.I. 2000/1978 and amended by S.I. 2001/3767 and 2002/668.

(55) Paragraph 9 was amended by S.I. 2002/668.

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Regulations 2 and 4 and Schedules 1 and 2 amend the Income Support Regulations and the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) ("the Jobseeker's Allowance Regulations").

Paragraph 1 of Schedule 1 and paragraph 1 of Schedule 2 omit the definition of "residential allowance" from the Income Support Regulations and the Jobseeker's Allowance Regulations respectively.

Paragraph 6 of Schedule 1 and paragraph 9 of Schedule 2 omit the provisions relating to applicable amounts of residential allowance in the Income Support Regulations and the Jobseeker's Allowance Regulations respectively.

Paragraphs 5(b) and 8 of Schedule 1 and paragraphs 8, 11 and 12 of Schedule 2 omit provisions in the Income Support Regulations and the Jobseeker's Allowance Regulations respectively which relate to the special amounts payable to certain people in residential accommodation.

Paragraph 8 of Schedule 1 also omits paragraphs 13A and 13B of Schedule 7 to the Income Support Regulations which provide for the amount of the special rates of benefit payable to those residing in accommodation provided under the Polish Resettlement Act 1947.

Paragraph 9(b) of Schedule 1 omits paragraph 15B of Schedule 9 to the Income Support Regulations. Paragraph 15B provides that 50 per cent. of income received from an occupational or personal pension or retirement annuity contract shall be disregarded if the claimant lives in a Polish resettlement home, he is not residing with his spouse, and at least 50 per cent. of that income is being paid to or in respect of his spouse for that spouse's maintenance.

The remaining paragraphs of Schedules 1 and 2 make consequential amendments to the Income Support Regulations and the Jobseeker's Allowance Regulations.

Regulations 3 and 5 consequentially amend the Cold Weather Payments Regulations and the Social Fund Winter Fuel Payments Regulations 2000 (S.I. 2000/729) respectively.

These Regulations do not impose a charge on business.