

SCHEDULE

Part II

Amendments to the Jobseeker's Allowance Regulations

1. In regulation 1 (interpretation)—
 - (a) in paragraph (2), the definition of “preserved rights” shall be omitted;
 - (b) after paragraph (2E)(1), there shall be inserted the following paragraph—

“(2F) 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 6 weeks of any such period of absence and for this purpose—
 - (i) “patient” has the meaning it has in Schedule 4 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 3 weeks of any other period of absence.”.
2. In regulation 53 (persons treated as not engaged in remunerative work), for paragraph (c) 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 and infirmity, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness;”.
3. In regulation 82(2) (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 “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 “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 4 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.

(1) Paragraph (2E) was inserted by regulation 4(2)(b) of S.R. 2000 No. 241

(2) Regulation 82 was substituted by regulation 2(5) of, and paragraph 34 of Schedule 2 to, S.R. 2000 No. 350

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8. In both regulations 86A (applicable amounts for joint-claim couples) and 86B(3) (applicable amounts for joint-claim couples: polygamous marriages), for “, 86C (special cases)” there shall be substituted “or 86C” and “or 86D (members of joint-claim couples in residential care and nursing homes)” shall be omitted.

9. In regulation 86C(4) (joint-claim couples: special cases)—

- (a) at the beginning of paragraph (1), there shall be inserted “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 4A 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(5) (applicable amount for a joint-claim couple where a member is in a residential care or nursing home) shall be omitted.

11. In regulation 113(3)(a)(ii)(6) (notional capital)—

- (a) for “is payable,” there shall be substituted “is payable”;
- (b) “or accommodation charge to the extent that it is met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

12. In regulation 136A(3)(7) (treatment of payments from access funds)—

- (a) for “, any housing costs” there shall be substituted “or any housing costs”;
- (b) “or any accommodation charges to the extent that they are met under regulation 86 (applicable amounts for persons in residential care and nursing homes)” shall be omitted.

13. In regulation 138(3)(8) (income treated as capital)—

- (a) for “, any housing costs” there shall be substituted “or any housing costs”;
- (b) “or any accommodation charges to the extent that they are met under regulation 86 (applicable amounts for persons in residential care and nursing homes)” shall be omitted.

14. In regulation 148 (applicable amount in urgent cases)—

- (a) in paragraph (1)(a), “(b), ” shall be omitted;
- (b) paragraph (1)(b) shall be omitted;
- (c) in paragraph (1)(c), after “applicable amount shall” there shall be inserted “, subject to paragraph (1A),”;
- (d) in paragraph (1)(d), “(b) or” shall be omitted;
- (e) 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.”.

15. In regulation 148A(9) (applicable amount in urgent cases: joint-claim couples)—

- (a) in paragraph (1)(a), “(b), ” shall be omitted;

(3) Regulations 86A and 86B were inserted by regulation 2(5) of, and paragraph 35 of Schedule 2 to, [S.R. 2000 No. 350](#)

(4) Regulation 86C was inserted by regulation 2(5) of, and paragraph 35 of Schedule 2 to, [S.R. 2000 No. 350](#)

(5) Regulation 86D was inserted by regulation 2(5) of, and paragraph 35 of Schedule 2 to, [S.R. 2000 No. 350](#)

(6) Paragraph (3) was amended by regulation 3(1)(a) of [S.R. 1998 No. 326](#) and paragraph 44 of Schedule 2 to [S.R. 2000 No. 350](#)

(7) Regulation 136A was inserted by regulation 3(7) of [S.R. 2000 No. 242](#)

(8) Regulation 138 was amended by regulation 3(8) of [S.R. 2000 No. 242](#)

(9) Regulation 148A was inserted by regulation 2(5) of, and paragraph 47 of Schedule 2 to, [S.R. 2000 No. 350](#)

- (b) paragraph (1)(b) shall be omitted;
 - (c) in paragraph (1)(c), after “applicable amount shall” there shall be inserted “, subject to paragraph (1A),”;
 - (d) in paragraph (1)(d), “(b) or” shall be omitted;
 - (e) 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.”
16. Regulation 151 (amount of jobseeker’s allowance payable where a person is in a residential care or nursing home) shall be omitted.
17. In paragraph 3 of Schedule 1 (applicable amounts: residential allowance)—
- (a) in sub-paragraph (1)(10), after “shall” there shall be inserted “, 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 head (a), “, pursuant to sub-paragraph (5),” shall be omitted;
 - (iii) head (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).”
18. Schedules 3 (applicable amounts of persons in residential care and nursing homes) and 3A(11) (applicable amount of a joint-claim couple where a member is in a residential care or nursing home) shall be omitted.
19. In Schedule 4 (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(12)—
 - (i) “or 86” shall be omitted from each place where it appears;
 - (ii) “, as the case may be,” shall be omitted from each place where it appears;
 - (c) in column (2) of paragraph 11, “or 86, as the case may be,” shall be omitted from each place where it appears;
 - (d) in column (2) of paragraph 13A(13)—
 - (i) “or 86” shall be omitted from each place where it appears;
 - (ii) “as the case may be,” shall be omitted;
 - (e) paragraphs 16 and 17 shall be omitted;

(10) Sub-paragraph (1) was amended by paragraph 53(3) of Schedule 2 to [S.R. 2000 No. 350](#)

(11) Schedule 3A was inserted by regulation 2(5) of, and paragraph 55 of Schedule 2 to, [S.R. 2000 No. 350](#)

(12) Paragraph 10 was amended by regulation 2(5) of, and paragraph 56(a)(ii) of Schedule 2 to, [S.R. 2000 No. 350](#)

(13) Paragraph 13A was inserted by regulation 10(7)(a) of [S.R. 2000 No. 71](#)

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- (f) in column (2) of paragraph 17A(**14**)—
 - (i) in head (a)(**15**), “or 86 (applicable amounts for persons in residential care and nursing homes)” shall be omitted;
 - (ii) in head (b), “or 86” shall be omitted.
- 20. In Schedule 4A(**16**) (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”;
 - (b) in column (2) of paragraph 7—
 - (i) in head (a), “or 86D” shall be omitted;
 - (ii) in head (b), “or 86D, as the case may be,” and “or 86, as the case may be,” shall be omitted;
 - (c) in column (2) of paragraph 8, for “86D, as the case may be,” in each place where it appears, there shall be substituted “86C”;
 - (d) paragraphs 10 and 11 shall be omitted.
- 21. In Schedule 5 (sums to be disregarded in the calculation of earnings)—
 - (a) in paragraph 5(2), (3)(a)(ii) and (4)(a), “or in accommodation in a residential care home, nursing home” shall be omitted;
 - (b) in paragraph 18(a), “, or but for his accommodation in a residential care home or nursing home would be,” shall be omitted.
- 22. In Schedule 5A(**17**) (sums to be disregarded in the calculation of earnings of members of joint-claim couples)—
 - (a) in paragraph 1(2) and (4)(a), “or in accommodation in a residential care home or nursing home” shall be omitted;
 - (b) in paragraph 3(a)(ii), “or in accommodation in a residential care home, nursing home” shall be omitted.
- 23. In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—
 - (a) in paragraph 10, the words from “, but, where” to the end shall be omitted;
 - (b) in paragraph 15—
 - (i) in sub-paragraph (2)—
 - (aa) for “sub-paragraphs (3) and (6)” there shall be substituted “sub-paragraph (3)”;
 - (bb) for “housing benefit is payable,” there shall be substituted “housing benefit is payable or”;
 - (cc) “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) in paragraph 16, sub-paragraph (3) shall be omitted;
 - (d) paragraph 16A(**18**) shall be omitted;

(14) Paragraph 17A was added by regulation 2(5) of, and paragraph 56(b)(i) of Schedule 2 to, [S.R. 2000 No. 350](#)

(15) Head (a) was added by regulation 2(5) of, and paragraph 56(b)(ii) of Schedule 2 to, [S.R. 2000 No. 350](#)

(16) Schedule 4A was inserted by regulation 2(5) of, and paragraph 57 of Schedule 2 to, [S.R. 2000 No. 350](#)

(17) Schedule 5A was inserted by regulation 2(5) and paragraph 58 of, Schedule 2 to, [S.R. 2000 No. 350](#)

(18) Paragraph 16A was inserted by regulation 32 of [S.R. 1996 No. 358](#)

- (e) in paragraph 31(1)(e), for “increased, where appropriate, in accordance with paragraph 2 of Schedule 3 exceeds the amount determined in accordance with regulation 86 (residential care and nursing homes) or” there shall be substituted “exceeds”;
- (f) in paragraph 32—
 - (i) in sub-paragraph (2), “or whose applicable amount falls to be calculated in accordance with regulation 86 (residential care and nursing homes)” shall be omitted;
 - (ii) in sub-paragraph (3), for head (a) there shall be substituted the following head—
 - “(a) the claimant’s applicable amount, and”;
- (g) in paragraph 65(2)(19), “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

24. In paragraph 49(2) of Schedule 7(20) (capital to be disregarded), “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

(19) Paragraph 65 was added by regulation 6(4) of S.R. 1999 No. 342

(20) Paragraph 49 was added by regulation 6(5) of S.R. 1999 No. 342