

SCHEDULE 3

Regulation 9

AMENDMENT OF THE JOBSEEKER'S ALLOWANCE REGULATIONS

1. In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2)—

- (i) after the definition of “the 1998 Order”⁽¹⁾ there shall be inserted the following definition—

““Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;”;

- (ii) after the definition of “the Income Support Regulations” there shall be inserted the following definition—

““independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003⁽²⁾;”;

- (iii) for the definition of “nursing home” there shall be inserted the following definition—

““nursing home” has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;”;

- (iv) the definition of “residential accommodation” shall be omitted, and

- (v) for the definition of “residential care home” there shall be inserted the following definition—

““residential care home” has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order;”.

- (b) in paragraph (2F)⁽³⁾ for the words from “or a nursing home” to “reside in that home” there shall be substituted “, nursing home, an Abbeyfield Home or an independent hospital and he is temporarily absent from that home or hospital, he shall be regarded as continuing to reside in that home or hospital”.

2. In regulation 53 (persons treated as not engaged in remunerative work) for paragraph (c)⁽⁴⁾ there shall be substituted the following paragraph—

“(c) a person who—

- (i) is in employment;

- (ii) lives in, or is temporarily absent from a residential care home, nursing home, an Abbeyfield Home or an independent hospital, and

- (iii) 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 78 (circumstances in which a person is to be treated as being or not being a member of the household)—

(1) The definition of “the 1998 Order” was inserted by Article 9(2)(a) of [S.R. 1999 No. 428 \(C. 32\)](#)

(2) [S.I. 2003/431 \(N.I. 9\)](#)

(3) Paragraph (2F) was inserted by regulation 2(2) of, and paragraph 1(b) of Part II of the Schedule to, [S.R. 2002 No. 132](#) and amended by regulation 5(2) of [S.R. 2003 No. 261](#)

(4) Paragraph (c) was substituted by regulation 2(2) of, and paragraph 2 of Part II of the Schedule to, [S.R. 2002 No. 132](#).

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- (a) in paragraph (3)(d)(5) for “in residential accommodation or a residential care home or a nursing home” there shall be substituted “residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital”;
 - (b) in paragraph (5)(c) the words from “provided under” to “in regulation 85(4)” shall be omitted;
 - (c) in paragraph (9) before the definition of “an authority”(6) there shall be inserted the following definition—
 - ““accommodation” means accommodation provided or arranged by the Department of Health, Social Services and Public Safety under Article 15 or 36 of the 1972 Order in a home owned or managed by a Health and Social Services Board or an HSS trust where the accommodation is provided for a person whose stay in that accommodation has become other than temporary;”.
4. In regulation 85 (special cases)—
- (a) in paragraph (3)(7) for “paragraphs 1 and 17 (persons in residential care or nursing homes who become patients) there shall be substituted “paragraph 1”;
 - (b) in paragraph (4) the definition of “residential accommodation” shall be omitted, and
 - (c) paragraphs (5)(8) and (6) shall be omitted.
5. In regulation 105 (notional income), for paragraph (11)(9) there shall be substituted the following paragraph—
- “(11) Where the claimant resides in a residential care home, nursing home, an Abbeyfield Home or an independent hospital, or is temporarily absent from such a home or hospital, any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant or his partner in that home or hospital shall be treated as possessed by the claimant or his partner.”.
6. In regulation 116 (calculation of tariff income from capital)—
- (a) in paragraph (1B)(10)—
 - (i) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—
 - “(a) a residential care home, nursing home or an independent hospital;
 - (b) an Abbeyfield Home.”;
 - (ii) sub-paragraph (c) shall be omitted;
 - (b) in paragraph (1C)(11) for “accommodation” in both places where it occurs, there shall be substituted “hospital”;
 - (c) paragraph (4)(12) shall be omitted.
7. In regulation 140 (meaning of “person in hardship”), in paragraph (4) for “or nursing home” there shall be substituted “, nursing home, an Abbeyfield Home or an independent hospital”.

(5) Paragraph (3) was amended by regulation 18 of S.R. 1996 No. 358 and regulation 2(5) of, and paragraph 33(c) of Schedule 2 to, S.R. 2000 No. 350

(6) The definition of “an authority” was inserted by regulation 8(4)(c) of S.R. 1998 No. 2

(7) Paragraph (3) was amended by regulation 3 and paragraph 8(b) of Schedule 2 to, S.R. 2003 No. 195

(8) Paragraph (5) was substituted by regulation 2(9)(c) of S.R. 1996 No. 503

(9) Paragraph (11) was amended by regulation 3 of, and paragraph 10(f) of Schedule 2 to, S.R. 2003 No. 195

(10) Paragraph (1B) was inserted by regulation 10(b) of S.R. 1996 No. 356 and amended by regulation 8 of S.R. 1997 No. 22

(11) Paragraph (1C) was inserted by regulation 10(b) of S.R. 1996 No. 356

(12) Paragraph (4) was added by regulation 10(c) of S.R. 1996 No. 356

8. In regulation 146A(13) (meaning of “couple in hardship”), in paragraph (4) for “or nursing home” there shall be substituted “home, nursing home, an Abbeyfield Home or an independent hospital”.

9. In Schedule 2 (housing costs)—

(a) in paragraph 3(13) (circumstances in which a person is to be treated as occupying a dwelling as his home) for head (c) there shall be substituted the following head—

“(c) “residential accommodation” means accommodation which is a residential care home, a nursing home, an Abbeyfield Home, or an independent hospital;”;

(b) in paragraph 4(1) (housing costs not met), in head (b)(14) for “in accommodation which is a residential care home or a nursing home except where he is in such accommodation” there shall be substituted “living in a residential care home, nursing home, an Abbeyfield Home or an independent hospital except where he is living in such a home or hospital”.

10. In Schedule 4 (applicable amounts in special cases)—

(a) in paragraph 5 (specified cases of temporarily separated couples) at column (1)—

(i) in sub-paragraph (a) for heads (i) and (ii) there shall be substituted the following head—

“(i) not a patient but is residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital, or”;

(ii) in sub-paragraph (b) for heads (iii) and (iv) there shall be substituted the following head—

“or

(iii) residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital.”;

(b) in paragraph 6 (polygamous marriages where one or more partners are temporarily separated) at column (1) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraph—

“(a) not a patient but is residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital;”.

11. In Schedule 4A(15) (applicable amounts of joint-claim couples in special cases)—

(a) in paragraph 4 (specified cases of temporarily separated joint-claim couples) at column (1)—

(i) in sub-paragraph (a) for heads (i) and (ii) there shall be substituted the following head—

“(i) not a patient but is residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital, or”;

(ii) in sub-paragraph (b) for heads (iii) and (iv) there shall be substituted the following head—

“or

(iii) residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital.”;

(13) Regulation 146A was inserted by regulation 2(3) of [S.R. 2000 No. 350](#)

(14) Head (b) was amended by regulation 2(5) of, and paragraph 54(4)(a) of Schedule 2 to, [S.R. 2000 No. 350](#)

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

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(b) in paragraph 5 (polygamous marriages where one or more members are temporarily separated) at column (1) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraph—

“(a) not a patient but is residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital;”.

12. In Schedule 5 (sums to be disregarded in the calculation of earnings), in paragraph 5(2)(**16**), 5(3)(a)(ii) and 5(4)(a) “or in residential accommodation” shall be omitted.

13. In Schedule 5A(**17**) (sums to be disregarded in the calculation of earnings of members of joint-claim couples), in paragraph 1(2)(**18**), 1(3)(a)(ii) and 1(4)(a) “or in residential accommodation” shall be omitted.

14. In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 16(**19**)—

(i) in sub-paragraph (1) for “or nursing home by the Department” there shall be substituted “, nursing home, an Abbeyfield Home or independent hospital by the Department of Health, Social Services and Public Safety”;

(ii) in sub-paragraph (2)—

(aa) in head (a) for “or nursing home by the Department” there shall be substituted “, nursing home, Abbeyfield Home or independent hospital by the Department of Health, Social Services and Public Safety” and after “the home” insert “or hospital”;

(bb) for head (b) there shall be substituted the following head—

“(b) the cost of the accommodation was in excess of what the Department of Health, Social Services and Public Safety would normally expect to pay having regard to the needs of the claimant assessed by that Department”;

(iii) in sub-paragraph (4) for “the Department and the cost the” there shall be substituted “the Department of Health, Social Services and Public Safety and the cost that”;

(b) in paragraph 32(**20**)—

(i) in sub-paragraph (1) for “in a residential care home or nursing home” there shall be substituted “residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital” and after “in that home” there shall be added “or hospital”;

(ii) in sub-paragraph (2) for “or nursing home is provided by the Department” there shall be substituted “, nursing home, an Abbeyfield Home or an independent hospital is provided by the Department of Health, Social Services and Public Safety”;

(c) in paragraph 60(**21**) for “in a residential care or nursing home” there shall be substituted “residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital”.

(16) Paragraph 5 was amended by regulation 3 of, and paragraph 3(b) of the Schedule to, [S.R. 2000 No. 366](#) and regulation 2(2) of, and paragraph 21(a) of Part II of the Schedule to, [S.R. 2002 No. 132](#)

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

(18) Paragraph 1 was amended by regulation 3 of, and paragraph 3(c) of the Schedule to, [S.R. 2000 No. 366](#) and regulation 2(2) of, and paragraph 22 of Part II of the Schedule to, [S.R. 2002 No. 132](#)

(19) Paragraph 16 was amended by regulation 2(2) of, and paragraph 23(c) and (d) of Part II of the Schedule to, [S.R. 2002 No. 132](#)

(20) Paragraph 32 was amended by regulation 2(2) of, and paragraph 23(f) of Part II of the Schedule to, [S.R. 2002 No. 132](#)

(21) Paragraph 60 was added by regulation 9(2)(b) of [S.R. 1998 No. 81](#)

15. In Schedule 7 (capital to be disregarded) in paragraph 52(5)(22) for “being in residential accommodation, a residential care home or a nursing home” there shall be substituted “residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital”.