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STATUTORY INSTRUMENTS

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**1987 No. 1967**

**The Income Support (General) Regulations 1987**

**PART IV**

**APPLICABLE AMOUNTS**

**Applicable amounts**

**17.** Subject to regulations 18 to 22 and 70 (applicable amounts in other cases and reductions in applicable amounts and urgent cases), a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case:

- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 (1), (2) or (3), as the case may be, of Schedule 2;
- (b) an amount determined in accordance with paragraph 2 of Schedule 2 in respect of any child or young person who is a member of his family, except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000;
- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part II of Schedule 2 (family premium);
- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts III and IV of Schedule 2 (premiums);
- (e) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

**Polygamous marriages**

**18.** Subject to regulations 19 to 22 and 70 (applicable amounts in other cases and reductions in applicable amounts and urgent cases), where a claimant is a member of a polygamous marriage his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case:

- (a) the highest amount applicable to him and one of his partners determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 2 as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) (b) and (1) (c) of paragraph 1 of Schedule 2 in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 2 of Schedule 2 (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000;

- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part II of Schedule 2 (family premiums);
- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 2 (premiums);
- (f) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

### **Applicable amounts for persons in residential care and nursing homes**

**19.**—(1) Subject to regulation 22 (reduction of applicable amounts) where—

- (a) the claimant lives in a residential care home or nursing home; or
- (b) if he is a member of a family—
  - (i) he and the members of his family live in such a home; or
  - (ii) he and the members of his family normally live in such a home and, where there is a period of temporary absence from the home of any member of the family, provided that the claimant or his partner lives in the home during that absence,
 his weekly applicable amount shall except in a case to which regulation 21 (applicable amounts in special cases) or Part II of Schedule 4 (persons to whom regulation 19 does not apply) applies, be calculated in accordance with Part I of that Schedule.

(2) Where—

- (a) a claimant immediately before 27th July 1987 was in receipt of supplementary benefit as a boarder in a residential care home which was not required to register under Part I of the Registered Homes Act 1984 because section 1(4) of that Act (registration) applied to it; and
- (b) immediately before 11th April 1988 his appropriate amount fell to be determined, by virtue of regulation 3 of the Supplementary Benefit (Requirements and Resources) Amendment Regulations 1987(1) (transitional provisions), in accordance with paragraph 1 of Schedule 1A to the Supplementary Benefit Requirements Regulations 1983(2) (maximum amounts for residential care homes) or would have been so determined but for his temporary absence from the home,

his weekly applicable amount shall be calculated in accordance with Part I of Schedule 4 (applicable amounts of persons in residential care homes or nursing homes) as if the home was a residential care home within the meaning of this regulation if, and for so long as, the claimant remains resident in the same home apart from any temporary absence, and the home continues to provide accommodation with board and personal care for the claimant by reason of his old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder.

(3) In this regulation and Schedule 4—

“nursing home” means—

- (a) premises which are a nursing home or mental nursing home within the meaning of the Registered Homes Act 1984(3) 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

(1) S.I.1987/1325.

(2) S.I. 1983/1399; the relevant amending instruments are S.I. 1985/1835 and 1986/1292.

(3) 1984 c. 23.

- (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(4) (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); or
  - (ii) premises which are a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984(5) (private hospitals), and which are registered under that Act;

“residential care home” means an establishment—

- (a) registered under Part I of the Registered Homes Act 1984; or
- (b) which provides residential accommodation with both board and 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 for fewer than four persons, excluding persons carrying on or intending to carry on the home or employed or intended to be employed there and their relatives, but only if—
  - (i) at least two employed or self-employed persons (referred to in this paragraph as responsible persons) are each engaged in providing personal care to residents of the establishment for a minimum of 35 hours a week and those persons are not engaged in any other remunerative work; and
  - (ii) each of those responsible persons has at least one year’s relevant experience in caring for persons in need of the category of personal care for which the establishment provides such care; and
  - (iii) at least one responsible person is available throughout the day to care for residents of the establishment; and
  - (iv) at least one responsible person is on call throughout the night to care for residents of the establishment; and
  - (v) all residents have free access to the premises at all times; or
- (c) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or
- (d) managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority; or
- (e) in Scotland, which is a home registered under section 61 of the Social Work (Scotland) Act 1968(6) or is an establishment provided by a housing association registered with

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(4) 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 of 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 of 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 (c. 53).

(5) 1984 c. 36.

(6) 1968 c. 49, section 61 was amended by the Criminal Proceedings (Scotland Act) 1975 (c. 21), section 289C and G and Schedule 7C.

the Housing Corporation established by the Housing Act 1964(7) which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968;

“temporary absence” means—

- (a) in the case of a person who is over pensionable age, 52 weeks;
- (b) in any other case, 13 weeks.

(4) In Schedule 4 the expressions “old age”, “mental disorder”, “mental handicap”, “drug or alcohol dependence” and “disablement” have the same meanings as those expressions have for the purposes of the Registered Homes Act 1984 and Regulations made thereunder.

### **Applicable amounts for persons in board and lodging accommodation and hostels**

**20.**—(1) Subject to regulation 22 (reductions of applicable amounts) where—

- (a) the claimant lives in board and lodging accommodation or a hostel; or
- (b) if he is a member of a family,
  - (i) he and the members of his family live in such accommodation; or
  - (ii) he and the members of his family normally live in such accommodation and, where there is a period of absence from the accommodation of any member of the family, provided that the claimant or his partner lives in the accommodation during that absence,

his weekly applicable amount shall, except in a case to which regulation 21 (special cases) or Part II of Schedule 5 (persons to whom regulation 20 does not apply) applies, be calculated in accordance with Part I of that Schedule.

(2) In this regulation and Schedule 5— “board and lodging accommodation” means—

- (a) accommodation provided to the claimant or, if he is a member of a family, to him or any other members of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which are both prepared and consumed in that accommodation or associated premises; or
- (b) accommodation provided in a hotel, guest-house, lodging-house or some similar establishment;

“board and lodging area” means the area numbered in column (1) of Schedule 6 (board and lodging areas) and described in column (2) thereof and for the purposes of this regulation and Schedule 5 any place not included in the description of a board and lodging area in Schedule 6 shall be treated as forming part of the board and lodging area nearest to it;

“hostel” means a building not being a residential care home or nursing home—

- (a) in which there is provided for persons generally or for a class of persons, residential accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both and—
- (b) which is
  - (i) managed by a housing association registered with the Housing Corporation established by the Housing Act 1964; or
  - (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or

- (iii) managed by a voluntary body or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community; or
- (iv) for the purposes of any particular case, such other establishment of like nature as the Secretary of State may, in his discretion determine.

### Special cases

**21.**—(1) Subject to regulation 22 (reductions in applicable amounts) in the case of a person to whom any paragraph in column (1) of Schedule 7 applies (applicable amounts in special cases), the amount included in the claimant's weekly amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule; but no amount shall be included in respect of a child or young person if the capital of that child or young person calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

(2) In Schedule 7, for the purposes of paragraph 1, 2, 3 or 18 (patients), where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(3) In Schedule 7—

“person from abroad” means a person, who—

- (a) has a limited leave as defined in section 33(1) of the Immigration Act 1971<sup>(8)</sup> (hereinafter referred to as “the 1971 Act”) to enter or remain in the United Kingdom which was given in accordance with any provision of the immigration rules (as defined in that section) which refers to there being, or to there needing to be, no recourse to public funds or to there being no charge on public funds during that limited leave; but this sub-paragraph shall not apply to a person who is a national of a Member State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953)<sup>(9)</sup>, the Channel Islands or the Isle of Man; or
- (b) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (c) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom; or
- (d) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom; or
- (e) has been allowed temporary admission to the United Kingdom by virtue of paragraph 21 of Schedule 2 to the 1971 Act; or
- (f) has been allowed temporary admission to the United Kingdom by the Secretary of State outside any provision of the 1971 Act; or
- (g) has not had his immigration status determined by the Secretary of State;

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<sup>(8)</sup> 1971 c. 77, as amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.

<sup>(9)</sup> Cmnd 9512.

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(10).

“prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person whose detention is under the provisions of the Mental Health Act 1983(11) or Mental Health (Scotland) Act 1984;

“residential accommodation” means, subject to paragraph (4), accommodation for a person whose stay in the accommodation has become other than temporary which is accommodation provided under—

- (a) sections 21 to 24 and 26 of the National Assistance Act 1948(12) (provision of accommodation); or
- (b) in Scotland, for the purposes of section 27 of the National Health Service (Scotland) Act 1947(13) (prevention of illness and after-care) or under section 59 of the Social Work (Scotland) Act 1968(14) (provision of residential and other establishments) other than in premises which are registered under section 61 of that Act (registration) and which are used for the rehabilitation of alcoholics or drug addicts; or
- (c) under section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities); or
- (d) under section 21 of, and paragraph 1 or 2 of Schedule 8 to, the National Health Service Act 1977(15) (care of mothers and young children, prevention, care and aftercare) by a local social services authority other than—
  - (i) such accommodation where full board is not available to the person; or
  - (ii) accommodation provided under the said section 21 and paragraph 2 which is registered under the provisions of Part I of the Registered Homes Act 1984 where the premises are used for the rehabilitation of alcoholics or drug users; or
  - (iii) a hostel within the meaning of regulation 20(2) (applicable amounts for persons in board and lodging accommodation or hostels).

(4) A person who would, but for this paragraph, be in residential accommodation within the meaning of paragraph (3) shall not be treated as being in residential accommodation if he is a person—

(10) S.I. 1975/555, the relevant amending instruments are 1977/1693 and 1987/1683.

(11) 1983 c. 72.

(12) 1948 c. 29; section 21 was amended by the Local Government Act 1972 (c. 70), Schedule 23, paragraphs 1 and 2 and Schedule 30; the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 44 and Schedule 5; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 5; the Health Services Act 1980 (c. 53), Schedule 1, Part I, paragraph 5. Section 22 was amended by the Social Work (Scotland) Act 1968 (c. 49), section 87(4) and Schedule 9, Part I; the Supplementary Benefits Act 1976 (c. 71), Schedule 7, paragraph 3; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the Social Security Act 1980 (c. 30), section 20, Schedule 4, paragraph 2(1) and Schedule 5, Part II and the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(a). Section 24 was amended by the National Assistance (Amendment) Act 1959 (c. 30), section 1(1); the National Health Service (Scotland) Act 1972 (c. 58), Schedule 6, paragraph 82; the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2; the National Health Service Reorganisation Act 1972 (c. 32), Schedule 4, paragraph 45 and the Housing (Homeless Persons) Act 1977 (c. 48), Schedule. Section 26 was amended by the Health Services and Public Health Act 1968 (c. 46), section 44 and Schedule 4 and the Social Work (Scotland) Act 1968 (c. 49) Schedule 9, Part I and applied by section 87(3); the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule and the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(b).

(13) 1947 c. 27, as applied by section 1(4)(c) of the Social Work (Scotland) Act 1968 (c. 49), section 27 for the purposes of section 1(4)(c) of the 1968 Act is continued in force by paragraph 15 of Schedule 15 to the National Health Service (Scotland) Act 1978 (c. 29).

(14) 1968 c. 49.

(15) 1977 c. 49, paragraph 1(2) and 2(5) of Schedule 8 were repealed by section 30 of, and Schedule 10 to, the Health and Social Services and Social Security Adjudications Act 1983, and paragraph 2(1) and (3) of Schedule 8 were amended by section 148 of, and Schedule 4 to, the Mental Health Act 1983 (c. 20).

- (a) who is under the age of 18 and in the care of a local authority under Part II or III of the Social Work (Scotland) Act 1968 (promotion of social welfare of children in need of care), or
- (b) who is staying in a residential care home as defined in regulation 19(3) (applicable amounts for persons in residential care and nursing homes) under the provisions referred to in subparagraph (b) to (d) of paragraph (3) where—
  - (i) the weekly cost of such accommodation exceeds the maximum amount provided for under regulation 19 and paragraphs 6, 8, 9, 10 and 11 of Schedule 4 (applicable amounts of persons in residential care and nursing homes) in respect of such accommodation; and
  - (ii) the local authority accepts responsibility for the making of arrangements for the provision of such accommodation for that person in the light of that person being entitled to such maximum amount as a person in a residential care home under and by virtue of that regulation, provided that in the case of a person over pensionable age the local authority had accepted such responsibility for a period of not less than 2 years immediately before that person attained pensionable age.

(5) A claimant to whom paragraph 19 of Schedule 7 (disability premium) applies shall be entitled to income support for the period in respect of which that paragraph applies to him notwithstanding that his partner was also entitled to income support for that same period.

#### **Reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification**

**22.**—(1) The weekly applicable amount of a claimant to whom paragraph (4) or (5) applies shall, subject to paragraph (2), be reduced by a sum equal to 40 per cent of the following amount (hereinafter referred to as the “relevant amount”)—

- (a) in the case of a person to whom regulation 17 or 18 or paragraph 4 to 6, 9 to 12, 16, 17(c) (i) or (d)(i) of Schedule 7 applies—
  - (i) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in paragraph 1(1)(a) of Schedule 2 (applicable amounts);
  - (ii) where he is a single claimant aged not less than 18 but less than 25, the amount specified in paragraph 1(1)(b) of that Schedule;
  - (iii) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(c) of that Schedule;
- (b) in the case of a person to whom regulation 19 or 20 (applicable amounts for persons in residential care or nursing homes or board and lodging accommodation or hostels) or paragraph 14 or 15 of Schedule 7 (applicable amounts in special cases) applies, the amount allowed for personal expenses for him specified in paragraph 13 of Schedule 4 or, as the case may be, paragraph 11(b) of Schedule 5.

(2) Where—

- (a) the claimant’s capital calculated in accordance with Part V (including any capital treated as his) does not exceed £200; and
  - (b) he or any member of his family is either pregnant or seriously ill,
- his weekly applicable amount shall be reduced by a sum equal to 20 per cent of the relevant amount in his case.

(3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2·5p but not of 5p, to the next lower multiple of 5p.

(4) This paragraph applies to a claimant—

- (a) whose weekly applicable amount is calculated otherwise than in accordance with regulation 21 and paragraph 1 to 3, 8(b), 13, 16 and 18 of Schedule 7; and
- (b) whose right to income support is, under section 20(3)(d)(i) of the Act (conditions of entitlement to income support), subject to the condition of availability for employment; and
- (c) who—
  - (i) is disqualified for receiving unemployment benefit under section 20(1) of the Social Security Act(16) (disqualifications etc); or
  - (ii) has made a claim for unemployment benefit which has not been determined by an adjudication officer and in respect of which, in the opinion of an adjudication officer, a question as to disqualification under that section arises; or
  - (iii) has not made a claim for unemployment benefit or has had such a claim disallowed other than by reason of section 20(1) and, in either case, would be so disqualified if he were to make such a claim or it had not been so disallowed.

(5) This paragraph applies to a claimant who is not required to be available for employment by virtue of regulation 8(2) (persons not required to be available for employment) or a person to whom regulation 11(2) applies (exemption from requirement to register for employment).

(6) This regulation shall apply—

- (a) in a case to which head (i) of paragraph (4)(c) applies, for the period of the disqualification;
- (b) in a case to which head (ii) of paragraph (4)(c) applies, for a period of 13 weeks except that where, on subsequent determination of the claim for unemployment benefit—
  - (i) disqualification is not imposed, any reduction imposed under paragraph (1) or (2), as the case may be, shall be withdrawn,
  - (ii) disqualification is imposed but for a period of less than 13 weeks, the period of such reduction shall be adjusted to correspond with the period of disqualification;
- (c) in a case to which head (iii) of paragraph (4)(c) applies, for the period for which the claimant would be disqualified if he were to make a claim for unemployment benefit or if such a claim had not been disallowed for other reasons.
- (d) in a case to which paragraph (5) applies, for so long as that paragraph continues so to apply.

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(16) 1975 c. 14; subsection (1) was amended and subsection (1A) was added by the Social Security Act 1986 (c. 5), section 43.