

## SCHEDULE 2

### APPLICABLE AMOUNTS

#### PART I

##### personal allowances

<sup>F1</sup>2A.—(1) The weekly amount for the purposes of regulation 17(1)(bb) and 18(1)(cc) (residential allowance) in respect of a person who satisfies the conditions specified in sub-paragraph (2) shall be—

- (a) except in a case to which head (b) applies, [<sup>F2</sup>£54.00]; and
- (b) where the home in which the person resides is situated within the area described in Schedule 3C (the Greater London area), [<sup>F2</sup>£60.00].

(2) Subject to sub-paragraphs [<sup>F3</sup>(3), (4) and (4A)], the conditions are—

- (a) the person resides in a residential care home or a nursing home [<sup>F4</sup>or is regarded pursuant to sub-paragraph (4A) as residing in such a home];

[ the person both requires personal care and is provided with it in the home and for this purpose “personal care” means care which includes assistance with bodily functions where such assistance is required;]

- <sup>F5</sup>(aa) purpose “personal care” means care which includes assistance with bodily functions where such assistance is required;]
- (b) he does not have a preserved right;
- (c) he is aged 16 or over;
- (d) both the person’s accommodation and such meals (if any) as are provided for him are provided on a commercial basis; and
- (e) no part of the weekly charge for accommodation is met by housing benefit.

(3) For the purposes of sub-paragraph (2), but subject to sub-paragraph (4), a person resides in a residential care home where the home in which he resides—

- (a) is registered under Part I of the Registered Homes Act 1984 or is deemed to be so registered by virtue of section 2(3) of the Registered Homes (Amendment) Act 1991 (registration of small homes where application for registration not determined);
- (b) is managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament (other than a social services authority) and provides both board and personal care for the claimant; or
- (c) is in Scotland and is registered under section 61 of the Social Work (Scotland) Act 1968 or is an establishment provided by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988 which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968;

and a person resides in a nursing home where the home in which he resides is such a home for the purposes of regulation 19.

(4) A person shall not be regarded as residing in a nursing home for the purposes of sub-paragraph (2) where the home in which he resides is a hospice, and for this purpose “hospice” means a nursing home which—

- (a) if situate in England or Wales, is registered under Part II of the Registered Homes Act 1984, or

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*Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, Paragraph 2A. (See end of Document for details)*

- (b) if situate in Scotland, is exempted from the operation of the Nursing Homes Registration (Scotland) Act 1938 by virtue of section 6 of that Act,

[<sup>F6</sup>and whose primary function is to provide palliative care for persons resident there who are suffering from a progressive disease in its final stages].

[<sup>F7</sup>(4A) For the purposes of sub-paragraph (2)(a), where a person's principal place of residence is a residential care home or 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 7 by virtue of regulation 21(3), 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.]

(5) Where—

- (a) a person has been registered under the Registered Homes Act 1984 in respect of premises which have been carried on as a residential care home or, as the case may be, a nursing home, and that person has ceased to carry on such a home; and
- (b) an application for registration under that Act has been made by another person and that application has not been determined or abandoned,

then any question arising for determination under this paragraph shall be determined as if the most recent registration under that Act in respect of those premises continued until the day on which the application is determined or abandoned.]

#### Textual Amendments

- F1** Sch. 2 para. 2A inserted (1.4.1993) by [The Social Security Benefits \(Amendments Consequential Upon the Introduction of Community Care\) Regulations 1992 \(S.I. 1992/3147\)](#), regs. 1(1), **2(1)(d)**
- F2** Sch. 2 Pt. 1 para. 2A sums substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up Rating Order 1996, \(S.I. 1996/599\)](#), art. 18(3), Sch. 4
- F3** Words in Sch. 2 para. 2A(2) substituted (31.5.1993) by [The Income Support \(General\) Amendment \(No. 2\) Regulations 1993 \(S.I. 1993/1219\)](#), regs. 1(1), **2(2)(a)** (with reg. 3)
- F4** Words in Sch. 2 para. 2A(2)(a) substituted (31.5.1993) by [The Income Support \(General\) Amendment \(No. 2\) Regulations 1993 \(S.I. 1993/1219\)](#), regs. 1(1), **2(2)(b)** (with reg. 3)
- F5** Sch. 2 para. 2A(2)(aa) inserted (1.4.1993) by [The Social Security Benefits \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/518\)](#), regs. 1, **5(4)**
- F6** Words in Sch. 2 para. 2A(4) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits Schemes \(Miscellaneous Amendments\) \(No. 4\) Regulations 1993 \(S.I. 1993/2119\)](#), regs. 1(1)(a), **18(2)**
- F7** Sch. 2 para. 2A(4A) inserted (31.5.1993) by [The Income Support \(General\) Amendment \(No. 2\) Regulations 1993 \(S.I. 1993/1219\)](#), regs. 1(1), **2(3)** (with reg. 3)

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**Changes to legislation:**

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, Paragraph 2A.