

## SCHEDULE

### Part I

#### Amendments to the Income Support (General) Regulations

1. In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) for the definitions of “nursing home” and “residential care home”(1) there shall be substituted the following definitions—

““nursing home” means—

- (a) any premises registered under Part III of the Registered Homes Order; or  
(b) any premises used for the reception of such persons or the provision of such nursing or services as is mentioned in Article 16 of the Registered Homes Order and which are maintained or controlled by any body of persons constituted by a statutory provision or incorporated by Royal Charter;”;

“residential care home” means an establishment—

- (a) which is required to be registered under Part II of the Registered Homes Order and is so registered;  
(b) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;  
(c) which provides residential accommodation with both board and personal care and is managed or provided by a body incorporated by Royal Charter or constituted by a statutory provision (other than a Health and Social Services Board or an HSS trust); or  
(d) which is exempt from registration under Part II of the Registered Homes Order pursuant to Article 4(4)(a) of that Order (requirement of registration) because one or more of the residents are treated as relatives pursuant to Article 2(6) of that Order,

and in paragraph (c) “personal care” means personal care for persons in need of personal care by reason of old age and infirmity, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;”;

- (ii) in the definition of “residential accommodation”(2), “regulation 19 and” shall be omitted;  
(iii) the definition of “preserved right”(3) shall be omitted;

(b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) 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 7 by virtue of regulation 21(3), and

(1) The definition of “residential care home” was inserted by regulation 2(2)(d) of S.R. 1993 No. 149

(2) The definition of “residential accommodation” was substituted by regulation 2(c) of S.R. 1988 No. 318 and amended by paragraph 1 of Schedule 1 to S.R. 1989 No. 139

(3) The definition of “preserved right” was inserted by regulation 2(2)(c) of S.R. 1993 No. 149

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- (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 6(4)(4) (persons not treated as in remunerative work), for sub-paragraph (d) there shall be substituted the following sub-paragraph—
- “(d) a person who is in employment, who lives in, or is temporarily absent from, a residential care home, a nursing home or residential accommodation and who 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 17(4)(a)(iii) (applicable amounts), for “either of the provisions referred to in sub-paragraph (a) or (b) of” there shall be substituted “the provisions referred to in”.
4. In regulation 18(1)(5) (polygamous marriages), for “regulations 19” there shall be substituted “regulations 21”.
5. Regulation 19 (persons in homes for persons in need and nursing homes) shall be omitted.
6. In regulation 21 (special cases)—
- (a) in paragraph (1)(6), after “Subject to” there shall be inserted “paragraph (1B),”;
- (b) after paragraph (1A)(7) there shall be inserted the following paragraph—
- “(1B) An amount shall only be applicable under paragraph 10A(8), 10B(9), 10C(10) or 13 of Schedule 7 (applicable amounts in special cases) 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.”;
- (c) in paragraph (3A)(11) “within the meaning of regulation 19(2) (persons in residential care homes and nursing homes)” shall be omitted.
7. In regulation 22A(1)(12) (reduction in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work), sub-paragraph (b) shall be omitted.
8. In regulation 51(3)(a)(ii) (notional capital)(13), “or accommodation charge to the extent that it is met under regulation 19 (persons in residential care homes and nursing homes)” shall be omitted.
9. In regulation 66B(3)(14) (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 19 (persons in homes for persons in need and nursing homes)” shall be omitted.

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(4) Regulation 6(4) was added by regulation 2(b)(iii) of S.R. 2000 No. 74

(5) Regulation 18(1) was amended by regulation 5(a) of S.R. 1988 No. 274 and regulation 10(a)(i) of S.R. 1996 No. 199

(6) Paragraph (1) was amended by regulation 4(3) of S.R. 1994 No. 77, regulation 12 of S.R. 1996 No. 199 and regulation 2(2) of S.R. 1996 No. 449

(7) Paragraph (1A) was inserted by regulation 3 of S.R. 1991 No. 170

(8) Paragraph 10A was inserted by regulation 34(b) of S.R. 1988 No. 146

(9) Paragraph 10B was inserted by regulation 34(b) of S.R. 1988 No. 146

(10) Paragraph 10C was inserted by regulation 19(c) of S.R. 1988 No. 431

(11) Paragraph (3A) was inserted by regulation 2(b) of S.R. 1991 No. 345 and amended by paragraph 6(6) of Schedule 2 to S.R. 1993 No. 149 and regulation 2 of S.R. 1996 No. 489

(12) Regulation 22A was inserted by regulation 13 of S.R. 1996 No. 199

(13) Paragraph (3) was substituted by regulation 11(a) of S.R. 1988 No. 318 and amended by paragraph 7 of Schedule 1 to S.R. 1989 No. 139, paragraph 6(8) of Schedule 2 to S.R. 1993 No. 149 and regulation 3(2)(a) of S.R. 1998 No. 326

(14) Regulation 66B was inserted by regulation 2(5) of S.R. 2000 No. 242

10. In regulation 68(3)(**15**) (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 19 (persons in homes for persons in need and nursing homes)” shall be omitted.
11. In regulation 71 (applicable amounts 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.”.
12. In regulation 73 (amount of income support payable)—
  - (a) in paragraph (3), in “A”, “, subject to paragraph (4),” shall be omitted;
  - (b) paragraphs (2), (4) and (5) shall be omitted.
13. In paragraph 2A(**16**) of Schedule 2 (applicable amounts: residential allowance)—
  - (a) in sub-paragraph (1), after “shall” there shall be inserted “, subject to sub-paragraph (6),”;
  - (b) in sub-paragraph (2)(**17**)—
    - (i) for “(3), (4) and (4A)” there shall be substituted “(3) and (4)”;
    - (ii) in head (a), “, pursuant to sub-paragraph (4A),” shall be omitted;
    - (iii) head (b) shall be omitted;
  - (c) in sub-paragraph (3), for “for the purposes of regulation 19” there shall be substituted “within the meaning of regulation 2(1)”;
  - (d) sub-paragraph (4A)(**18**) shall be omitted;
  - (e) after sub-paragraph (5) there shall be added the following sub-paragraph—

“(6) 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).”.
14. Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) shall be omitted.
15. In Schedule 7 (applicable amounts in special cases)—
  - (a) in column (1) of paragraph 1(**19**), for “2, 2A, 3 and 16”, there shall be substituted “2, 2A and 3”;
  - (b) in column (1) of paragraph 3, “Subject to paragraph 16—” shall be omitted;

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(15) Regulation 68 was amended by regulation 2(6) of [S.R. 2000 No. 242](#)

(16) Paragraph 2A was inserted by regulation 2(6) of [S.R. 1993 No. 149](#)

(17) Sub-paragraph (2) was amended by regulation 2(2)(a) of [S.R. 1993 No. 235](#)

(18) Sub-paragraph (4A) was inserted by regulation 2(2)(b) of [S.R. 1993 No. 235](#)

(19) Paragraph 1 was amended by regulation 19(a) of [S.R. 1990 No. 131](#)

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- (c) in column (1) of paragraph 10A(20), “sub-paragraph (a) or (b) (excluding heads (i) and (ii) of those sub-paragraphs) of” shall be omitted;
  - (d) in paragraph 10B(1)(21)—
    - (i) in column (1), “sub-paragraph (a) or (b) (excluding heads (i) and (ii) of those sub-paragraphs) of” shall be omitted;
    - (ii) in column (2), “, 19” shall be omitted;
  - (e) in column (2) of paragraph 11(22), “or 19” shall be omitted from each place where it appears;
  - (f) in column (2) of paragraph 11A(23), “, 19” shall be omitted from each place where it appears;
  - (g) in column (2) of paragraph 12(24), “, 19” shall be omitted from each place where it appears;
  - (h) in column (2) of paragraph 12A(25), “, 19” shall be omitted from each place where it appears;
  - (i) paragraph 14 shall be omitted;
  - (j) in column (2) of paragraph 14A(26), “19 or” shall be omitted in each place where it appears;
  - (k) paragraph 16 shall be omitted;
  - (l) in column (2) of paragraph 17A(27), in sub-paragraph (2), “or Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes)” shall be omitted.
16. In Schedule 8 (sums to be disregarded in the calculation of earnings)—
- (a) in paragraph 4(2), (3)(a)(ii) and (4)(a)(28) “or in accommodation in a residential care home or nursing home” shall be omitted;
  - (b) in paragraph 15(a)(29), “, or but for his accommodation in a home for persons in need or nursing home would be,” shall be omitted.
17. In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 9(30), the words from “, but, where” to the end shall be omitted;
  - (b) in paragraph 15(31)—
    - (i) in sub-paragraph (2)(32)—
      - (aa) for “sub-paragraphs (3) and (6)” there shall be substituted “sub-paragraph (3)”;

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(20) Paragraph 10A was inserted by regulation 34(b) of S.R. 1988 No. 146 and amended by regulation 8 of, and paragraph 13(a) of Schedule 1 to, S.R. 1989 No. 139

(21) Paragraph 10B was inserted by regulation 34(b) of S.R. 1988 No. 146 and amended by regulation 8 of, and paragraph 13(a) of Schedule 1 to, S.R. 1989 No. 139

(22) Paragraph 11 was amended by regulation 22 of S.R. 1988 No. 318 and paragraph 13(c) of Schedule 1 to S.R. 1989 No. 139

(23) Paragraph 11A was inserted by regulation 19(h) of S.R. 1990 No. 131

(24) Paragraph 12 was substituted by regulation 19(i) of S.R. 1990 No. 131

(25) Paragraph 12A was inserted by regulation 19(j) of S.R. 1990 No. 131

(26) Paragraph 14A was inserted by regulation 5(10)(a) of S.R. 2000 No. 71

(27) Paragraph 17A was inserted by regulation 7(a) of S.R. 2001 No. 78

(28) Paragraph 4 was substituted by regulation 9 of S.R. 1989 No. 139 and amended by regulation 6(14)(a), (b) and (c) of Schedule 2 to S.R. 1993 No. 149

(29) Paragraph 15 was amended by regulation 12 of S.R. 1992 No. 147, paragraph 14(b) of Schedule 1 to S.R. 1989 No. 139 and regulation 3 of S.R. 2000 No. 366

(30) Paragraph 9 was substituted by regulation 4(5)(a) of S.R. 1993 No. 165

(31) Paragraph 15 was substituted by regulation 20(a) of S.R. 1990 No. 131

(32) Sub-paragraph (2) was amended by regulation 4(22)(b)(i) of S.R. 1993 No. 373, paragraph 1(7)(a) of Schedule 1 to S.R. 1993 No. 149 and regulation 4(9)(a) of S.R. 1994 No. 77

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- (bb) “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted;
- (ii) sub-paragraph (6)(**33**) shall be omitted;
- (c) in paragraph 15A(**34**), sub-paragraph (3) shall be omitted;
- (d) in paragraph 15B(**35**), head (a) in sub-paragraph (1) shall be omitted;
- (e) in paragraph 30(1)(e), for “increased, where appropriate, in accordance with paragraph 2 of Schedule 4 (applicable amounts of persons in residential care homes and nursing homes) exceeds the amount determined in accordance with regulation 19 (residential care and nursing homes) or” there shall be substituted “exceeds”;
- (f) in paragraph 30A(**36**)—
  - (i) in sub-paragraph (2), “, or whose applicable amount falls to be calculated in accordance with regulation 19” 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 67(2)(**37**), “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

18. In paragraph 54(2)(**38**) of Schedule 10(**39**) (capital to be disregarded), “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

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(33) Sub-paragraph (6) was substituted by regulation 4(22)(b)(iii) of S.R. 1993 No. 373

(34) Paragraph 15A was inserted by regulation 4(5)(c) of S.R. 1993 No. 165

(35) Paragraph 15B was inserted by regulation 2 of S.R. 1996 No. 78

(36) Paragraph 30A was inserted by regulation 4(22)(e) of S.R. 1993 No. 373

(37) Paragraph 67 was added by regulation 5(4) of S.R. 1999 No. 342

(38) Paragraph 54 was added by regulation 5(5) of S.R. 1999 No. 342

(39) Schedule 10 was modified to include paragraphs 52 and 53 by regulation 16(2)(d) of S.R. 1998 No. 421