

SCHEDULE 2

Regulation 4

AMENDMENT OF THE HOUSING BENEFIT (GENERAL) REGULATIONS

1. In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) after the definition of “the Registered Homes 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) for the definition of “hostel”(2) substitute—

““hostel” means a building—

- (a) in which there is provided for persons generally or for a class of persons, domestic 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 or owned by a registered housing association, 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, the Executive or a Health and Social Services Board or HSS trust, or
(iii) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community, and

- (c) which is not—

- (i) a residential care home;
(ii) a nursing home;
(iii) an independent hospital, or
(iv) an Abbeyfield Home;”;

- (iii) after the definition of “an income-based jobseeker’s allowance”(3) 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;”;

- (iv) after the definition of “the normal regional rate”(4) 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;”;

- (v) after the definition of “rent” there shall be inserted the following definition—

(1) The definition of “the Registered Homes Order” was inserted by regulation 3(2) of S.R. 1993 No. 149

(2) The definition of “hostel” was inserted by regulation 3 of S.R. 1999 No. 372

(3) The definition of “an income-based jobseeker’s allowance” was inserted by regulation 2(a)(iii) of S.R. 1996 No. 334

(4) The definition of “the normal regional rate” was inserted by regulation 2 of S.R. 1991 No. 176

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““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;”.

2. In regulation 5(9) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), for the definition of “residential accommodation”(5) there shall be substituted the following definition—

““residential accommodation” means accommodation which is provided in—

- (a) a residential care home;
- (b) a nursing home;
- (c) an independent hospital;
- (d) an Abbeyfield Home, or
- (e) an establishment managed or provided by a body incorporated by Royal Charter or constituted by a statutory provision;”.

3. In regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling)—

- (a) in paragraph (1)(k)(6), “except where paragraph (2) applies,” shall be omitted;
- (b) paragraph (2)(7) shall be omitted;
- (c) for paragraph (3)(8) there shall be substituted the following paragraph—

“(3) In this regulation “residential accommodation” means accommodation which is provided in—

- (a) a residential care home;
- (b) a nursing home, or
- (c) an independent hospital.”;
- (d) paragraphs (4) to (14)(9) shall be omitted.

4. In regulation 8 (eligible housing costs), for paragraph (2)(10) there shall be substituted the following paragraph—

“(2) Subject to paragraph (3), housing benefit shall not be payable in respect of payments made by a person on income support or an income-based jobseeker’s allowance whose applicable amount for that benefit includes an amount in respect of those payments.”.

5. In regulation 12A(5)(11) (pre-tenancy decisions), the definitions of “nursing home” and “residential care home” shall be omitted.

6. In regulation 25(5)(12) (meaning of income)—

- (a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
“(a) in an Abbeyfield Home;”;

(5) The definition of “residential accommodation” was substituted by regulation 3(3) of [S.R. 1993 No. 149](#) and amended by paragraph 1(c) of Schedule 13 to, [S.R. 1994 No. 65](#)

(6) Paragraph (1) was substituted by regulation 3 of [S.R. 1998 No. 455](#)

(7) Paragraph (2) was amended by regulation 3(4)(b) of [S.R. 1993 No. 149](#)

(8) Paragraph (3) was substituted by paragraph 5 of Schedule 2 to, [S.R. 1993 No. 149](#)

(9) Paragraphs (4) to (14) were added by regulation 3(4)(c) of [S.R. 1993 No. 149](#)

(10) Paragraph (2) was amended by regulation 3(a) of [S.R. 1988 No. 314](#), regulation 3(5) of [S.R. 1993 No. 149](#) and regulation 5 of [S.R. 1996 No. 334](#)

(11) Regulation 12A was inserted by regulation 9 of [S.R. 1996 No. 111](#) and amended by regulation 3 of [S.R. 1999 No. 372](#) and regulation 4(d) and (e) of [S.R. 2001 No. 215](#)

(12) Regulation 25 was substituted, in relation to any person who has attained the qualifying age for state pension credit, by regulation 8 of [S.R. 2003 No. 197](#)

- (b) for sub-paragraph (c) there shall be substituted the following sub-paragraph—
 - “(c) in a residential care home or a nursing home;”;
 - (c) for sub-paragraph (e) there shall be substituted the following sub-paragraph—
 - “(e) in an independent hospital;”.
7. In regulation 45 (calculation of tariff income from capital)—
- (a) for paragraph (1B)(**13**) there shall be substituted the following paragraph—
 - “(1B) For the purposes of paragraph (1A), the prescribed circumstances are that the claimant—
 - (a) occupies residential accommodation as his home, or
 - (b) is a person—
 - (i) to whom on 13th November 2005, paragraph (2) of regulation 7 as in operation on that date applied, or
 - (ii) to whom on 13th November 2005, paragraph (5) or paragraph (7) of regulation 7 as in operation on that date applied and continues to apply;”;
 - (b) in paragraph (4)(**14**)—
 - (i) for sub-paragraph (c), there shall be substituted the following sub-paragraph—
 - “(c) which is an Abbeyfield Home;”;
 - (ii) for “and in this definition, “board” has the same meaning as in regulation 8(2)(b)” there shall be substituted the following—
 - “and in this definition “board” refers to the availability to the claimant in the home in which his accommodation is provided of cooked or prepared food, where the food is made available to him in consequence solely of his paying the charge for the accommodation or any other charge which he is required to pay as a condition of occupying the accommodation, or both those charges and is made available for his consumption without any further charge to him.”;
 - (c) for paragraph (5)(**15**) there shall be substituted the following paragraph—
 - “(5) Paragraph (4) shall not apply to residential accommodation of the type referred to in sub-paragraphs (a) to (c) of paragraph (4) where such accommodation is residential accommodation for the purpose of regulation 7 unless the claimant is a person to whom paragraphs 10, 11 or 12 of Schedule 2 to the Social Security (Residential Care Homes, Nursing Homes and Independent Hospitals) Regulations (Northern Ireland) 2005 apply.”.
8. In Schedule 5 (capital to be disregarded), paragraph 61(**16**)—
- (a) in sub-paragraph (5) for “being in residential accommodation, a residential care home or a nursing home” there shall be substituted “residing in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital”;
 - (b) in sub-paragraph (6) the definition of “residential accommodation”, “residential care home” and “nursing home” shall be omitted.
9. In Schedule 5ZA(**17**) (capital to be disregarded), paragraph 14—

(13) Paragraph (1B) was inserted by regulation 11(2)(b)(ii) of S.R. 1996 No. 93

(14) Paragraph (4) was added by regulation 11(2)(b)(iv) of S.R. 1996 No. 93

(15) Paragraph (5) was added by regulation 11(2)(b)(iv) of S.R. 1996 No. 93

(16) Paragraph 61 was added by regulation 2(2) of S.R. 2001 No. 150

(17) Schedule 5ZA was inserted, in relation to any person who has attained the qualifying age for state pension credit, by paragraph 1(c) of Schedule 2 to, S.R. 2003 No. 197

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- (a) in sub-paragraph (5), for “being in residential accommodation, a residential care home or a nursing home.” there shall be substituted “residing in a residential care home, a nursing home or an independent hospital.”;
- (b) in sub-paragraph (6), the definition of “residential accommodation”, “residential care home” and “nursing home” shall be omitted.

Transitional arrangements and savings for Housing Benefit

10.—(1) Sub-paragraph (2) shall apply to a person who, on 13th November 2005, was a person to whom paragraph (2) of regulation 7 of the Housing Benefit Regulations as in operation on that date applied.

(2) Where this sub-paragraph applies—

- (a) paragraph (2) of regulation 7 of those Regulations shall continue to have effect as if paragraphs 3(a) and (b) of Schedule 2 to these Regulations had not been made;
- (b) paragraph (3) of regulation 7 of those Regulations shall continue to have effect as if sub-paragraph 3(c) of Schedule 2 to these Regulations had not been made;
- (c) sub-paragraph (1B)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(a) of Schedule 2 to these Regulations had not been made;
- (d) sub-paragraph (5) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(c) of Schedule 2 to these Regulations had not been made.

(3) In this paragraph and in paragraphs 11 and 12 of this Schedule, the “Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987.

11.—(1) Sub-paragraph (2) shall apply to a person who, on 13th November 2005, was a person to whom paragraph (5) of regulation 7 of the Housing Benefit Regulations as in operation on that date applied.

(2) Where this sub-paragraph applies—

- (a) paragraphs (4), (5), (8), (9), (10), (11) and (12) of regulation 7 of the Housing Benefit Regulations shall continue to have effect as if paragraph 3(d) of Schedule 2 to these Regulations had not been made;
- (b) paragraph (3) of regulation 7 of those Regulations shall continue to have effect as if sub-paragraph 3(c) of Schedule 2 to these Regulations had not been made;
- (c) sub-paragraph (1B)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(a) of Schedule 2 to these Regulations had not been made;
- (d) sub-paragraph (5) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(c) of Schedule 2 to these Regulations had not been made.

12.—(1) Sub-paragraph (2) shall apply to a person who, on 13th November 2005, was a person to whom paragraph (7) of regulation 7 of the Housing Benefit Regulations as in operation on that date applied.

(2) Where this sub-paragraph applies—

- (a) paragraphs (6) to (14) of regulation 7 of those Regulations shall continue to have effect as if paragraph 3(d) of Schedule 2 to these Regulations had not been made;
- (b) paragraph (3) of regulation 7 of those Regulations shall continue to have effect as if sub-paragraph 3(c) of Schedule 2 to these Regulations had not been made;
- (c) sub-paragraph (1B)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(a) of Schedule 2 to these Regulations had not been made;

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- (d) sub-paragraph (5) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(c) of Schedule 2 to these Regulations had not been made.