

1987 No. 1325

**SOCIAL SECURITY**

**The Supplementary Benefit (Requirements and Resources) Amendment Regulations 1987**

*Made* - - - - - 24th July 1987

*Coming into force*  
*for the purposes of*  
*regulation 4* 1st September 1987  
*for all other purposes* 27th July 1987

The Secretary of State for Social Services, with the consent of the Treasury(a), in pursuance of paragraph 2 of Schedule 1 to the Supplementary Benefits Act 1976(b) and in exercise of the powers conferred by sections 1(3), 2(2), 33(5) and 34(1)(c) of, and paragraphs 1 and 2 of that Schedule to, that Act and section 166(2) and (3) of the Social Security Act 1975(d) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations insofar as they are required to be referred to it(e) should not be so referred, hereby makes the following Regulations of which a draft has, in accordance with section 33(3) of the Supplementary Benefits Act 1976, been laid before Parliament and approved by resolution of each House of Parliament:

**Citation and commencement**

1. These Regulations may be cited as the Supplementary Benefit (Requirements and Resources) Amendment Regulations 1987 and shall come into force for the purposes of regulation 4 on the 1st September 1987 and for all other purposes on 27th July 1987.

**Amendment of Schedule 1A to the Supplementary Benefit (Requirements) Regulations 1983**

2.—(1) Schedule 1A to the Supplementary Benefit (Requirements) Regulations 1983(f) (maximum amounts for boarders) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 6(1)—

(a) for the definition of “nursing home” there shall be substituted the following definition—

“ “nursing home” means—

(a) a nursing home or mental nursing home registered under Part II of the Registered Homes Act 1984(g) unless exempted under section 37 of that Act; or

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(a) See section 33(3) of the Supplementary Benefits Act 1976 (c.71).

(b) 1976 c.71, as amended by section 6(1) of, and Part I of Schedule 2 to, the Social Security Act 1980 (c.30).

(c) See definitions of “prescribed” and “regulations”.

(d) 1975 c.14; section 166(2) and (3) was applied by section 33(2) of the Supplementary Benefits Act 1976 (c.71).

(e) See section 10(2) of the Social Security Act 1980 (c.30).

(f) S.I. 1983/1399, the relevant amending instruments are S.I. 1985/1835, 1986/1292.

(g) 1984 c.23.

- (b) a nursing home or mental nursing home maintained or controlled by a body instituted by special Act of Parliament or incorporated by Royal Charter; or
  - (c) in Scotland, a nursing home within the meaning of section 10 of the Nursing Homes Registration (Scotland) Act 1938(a), or a private hospital within the meaning of the Mental Health (Scotland) Act 1984(b), and registered under either of those Acts unless exempted from registration;”;
- (b) in the definition of “residential care home”–
- (i) in paragraph (a) there shall be omitted all the words from “including” to “registered”, and
  - (ii) after paragraph (e) there shall be added the following–
    - “or
    - (f) 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 4 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) that personal care to residents of the establishment is provided by at least two employed or self-employed persons (referred to in this paragraph as responsible persons) and the provision of that care forms the predominant aspect of that employment, and
      - (ii) those responsible persons have 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) throughout the night, at least one responsible person is on call to care for residents of the establishment, and
      - (v) all residents have free access to the premises at all times.”.

### Transitional provisions

3.—(1) Where a claimant immediately before 27th July 1987 was–

- (a) in receipt of a pension or allowance as a boarder resident 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 applied to it; or
- (b) would have been in receipt of a pension or allowance as such a boarder but for his temporary absence from that home,

then notwithstanding the amendment made by regulation 2(2)(b)(ii) of these Regulations, provided the conditions in paragraph (2) are satisfied, his appropriate amount shall be determined in accordance with paragraph 1 of Schedule 1A to the Supplementary Benefit (Requirements) Regulations 1983 as if the amendment had not been made.

(2) The conditions to be satisfied for the purposes of paragraph (1) are that–

- (a) the claimant’s pension or allowance in respect of the period immediately prior to the 27th July 1987 was calculated on the basis that his appropriate amount was that prescribed under paragraph 1 of Schedule 1A to those Regulations, or would have been but for the temporary absence of the claimant from the home, and the determination awarding that pension or allowance had been made by an adjudication officer on a date prior to the 27th July 1987; and
- (b) the claimant since 27th July 1987 has been continuously entitled to a supplementary pension or allowance; and

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(a) 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).

(b) 1984 c.36.

- (c) the claimant has since the 27th July 1987 continued to be resident in that same home, apart from any temporary absence; and
- (d) the home before and continuously after 27th July 1987 provides both accommodation, board and personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder, to the claimant.

**Amendment to the Supplementary Benefit (Resources) Regulations 1981**

4. In regulation 11(4)(d)(v) of the Supplementary Benefit (Resources) Regulations 1981(a) (calculation of other income) for the sum of "£187" there shall be substituted the sum of "£210".

Signed by authority of the Secretary of State for Social Services.

23rd July 1987

*Michael Portillo*  
Parliamentary Under Secretary of State,  
Department of Health and Social Security

We consent,

24th July 1987

*Mark Lennox-Boyd*  
*Michael Neubert*  
Two of the Lords Commissioners of Her Majesty's Treasury

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations further amend the Supplementary Benefit (Requirements) Regulations 1983 ("the Requirements Regulations") as they relate to claimants resident in residential care and nursing homes and the Supplementary Benefit (Resources) Regulations 1981 as they relate to student's income.

Regulation 2(2)(a) introduces a requirement for nursing homes not controlled or maintained by a body constituted by special Act of Parliament or incorporated by Royal Charter to be registered under the Registered Homes Act 1984 or, in Scotland, under the Nursing Homes Registration (Scotland) Act 1938 or the Mental Health (Scotland) Act 1984 in order to qualify as a nursing home for the purposes of the Requirements Regulations.

Regulation 2(2)(b) amends the definition of a residential care home which provides care for fewer than 4 persons, by requiring certain minimum standards to be met.

Regulation 3 provides transitional protection to be given to those claimants resident in small residential care homes which now no longer meet the definition of such a home as a result of the amendments made by these Regulations.

Regulation 4 amends regulation 11 of the Supplementary Benefit (Resources) Regulations 1981 by increasing the amount of the student grant disregarded in respect of books and equipment from £187 to £210.

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(a) S.I. 1981/1527, the relevant amending instrument is S.I. 1986/1293.