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STATUTORY INSTRUMENTS

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**1987 No. 1967**

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

**PART III**

**MEMBERSHIP OF THE FAMILY**

**Persons of a prescribed description**

**14.**—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of section 20(11) of the Act as it applies to income support (definition of the family) and section 23(1) [<sup>F1</sup>and (3)] of the Act (trade disputes) is a person aged 16 or over but under 19 who is treated as a child for the purposes of section 2 of the Child Benefit Act 1975 (meaning of child), and in these Regulations such a person is referred to as a “young person”.

[<sup>F2</sup>(2) Paragraph (1) shall not apply to a person who is—

- (a) receiving advanced education within the meaning of regulation 12(2) (relevant education);
- (b) entitled to income support or would, but for section 134(2) (provision against dual entitlement of members of family) of the Contributions and Benefits Act, be so entitled; or
- (c) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.]

[<sup>F3</sup>(3) A person of a prescribed description for the purposes of section 137(1) of the Contributions and Benefits Act as it applies to income support (definition of family) includes a child or young person in respect of whom section 145A of that Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.]

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**Textual Amendments**

- F1** Words in reg. 14(1) substituted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **5**
- F2** [Reg. 14\(2\)](#) substituted (1.10.2001) by [The Children \(Leaving Care\) Act 2000 \(Commencement No. 2 and Consequential Provisions\) Order 2001 \(S.I. 2001/3070\)](#), art. 3(1), **Sch. 1** (b)
- F3** [Reg. 14\(3\)](#) added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker’s Allowance \(Working Tax Credit and Child Tax Credit\) \(Amendment\) Regulations 2002 \(S.I. 2002/2402\)](#), reg. 1(2), **Sch. 1 para. 2**

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**Commencement Information**

- I1** [Reg. 14](#) in force at 11.4.1988, see [reg. 1](#)

*Status: Point in time view as at 01/05/2004.*

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

## **Circumstances in which a person is to be treated as responsible or not responsible for another**

**15.**—<sup>F4</sup>(1) Subject to the following provisions of this regulation, a person is to be treated as responsible for a child or young person for whom he is receiving child benefit [<sup>F5</sup>and this includes a child or young person to whom paragraph (3) of regulation 14 applies.]

(1A) In a case where a child (“the first child”) is in receipt of child benefit in respect of another child (“the second child”), the person treated as responsible for the first child in accordance with the provisions of this regulation shall also be treated as responsible for the second child.

(2) In the case of a child or young person in respect of whom no person is receiving child benefit, the person who shall be treated as responsible for that child or young person shall be—

- (a) except where sub-paragraph (b) applies, the person with whom the child or young person usually lives; or
- (b) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim.]

(3) Where regulation 16(6) (circumstances in which a person is to be treated as being or not being a member of the household) applies in respect of a child or young person, that child or young person shall be treated as the responsibility of the claimant for that part of the week for which he is under that regulation treated as being a member of the claimant's household.

(4) Except where paragraph (3) applies, for the purposes of these Regulations a child or young person shall be treated as the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

### **Textual Amendments**

- F4** Reg. 15(1)(1A)(2) substituted for reg. 15(1)(2) (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), 5
- F5** Words in reg. 15(1) added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker’s Allowance \(Working Tax Credit and Child Tax Credit\) \(Amendment\) Regulations 2002 \(S.I. 2002/2402\)](#), reg. 1(2), **Sch. 1 para. 3**

### **Commencement Information**

- I2** Reg. 15 in force at 11.4.1988, see [reg. 1](#)

## **Circumstances in which a person is to be treated as being or not being a member of the household**

**16.**—(1) Subject to paragraphs (2) to (5), the claimant and any partner and, where the claimant or his partner is treated as responsible under regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person shall be treated as members of the same household [<sup>F6</sup>notwithstanding that any of them]<sup>F7</sup>is temporarily living away from the other members of his family].

<sup>F8</sup>(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or

- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks.]
- (3) Paragraph (1) shall not apply in respect of any member of a couple or of a polygamous marriage where—
  - (a) one, both or all of them are patients detained in a hospital provided under section 4 of the National Health Service Act 1977 <sup>F9</sup> (special hospitals) or section 90(1) of the Mental Health (Scotland) Act 1984 <sup>F10</sup> (provision of hospitals for patients requiring special security); or
  - <sup>F11</sup>(b) one, both or all of them are—
    - (i) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
    - (ii) on temporary release in accordance with the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989;]
  - <sup>F12</sup>(c) . . . . .
  - (d) the claimant is abroad and does not satisfy the conditions of regulation 4 (temporary absence from Britain); or
  - (e) one of them is permanently in residential accommodation or a residential care home or a residential nursing home.
- (4) A child or young person shall not be treated as a member of the claimant's household where he is—
  - <sup>F13</sup>(a) placed with the claimant or his partner by a local authority under section 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act; or
  - (b) placed with the claimant or his partner prior to adoption; or]
  - (c) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations 1983 <sup>F14</sup> or the Adoption Agencies (Scotland) Regulations 1984<sup>F15</sup>.
- (5) Subject to paragraph (6), paragraph (1) shall not apply to a child or young person who is not living with the claimant [<sup>F16</sup>and who]—
  - (a) [<sup>F17</sup>in a case which does not fall within sub-paragraph (aa),] has been continuously absent from Great Britain for a period of more than four weeks commencing—
    - (i) [<sup>F18</sup>subject to paragraph (5A),] where he went abroad before the date of claim for income support, with that date;
    - (ii) in any other case, [<sup>F19</sup>on the day which immediately follows the day] on which he went abroad; or
  - <sup>F20</sup>(aa) where regulation 4(3) or paragraph 11A or 12A of Schedule 7 (temporary absence abroad for the treatment of a child or young person) applies, has been continuously absent from Great Britain for a period of more than 8 weeks, that period of 8 weeks commencing—
    - (i) [<sup>F21</sup>subject to paragraph (5A),] where he went abroad before the date of the claim for income support, on the date of that claim;
    - (ii) in any other case, on the day which immediately follows the day on which he went abroad; or]

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(b) has been an in-patient or in [<sup>F22</sup>accommodation provided under any of the provisions referred to in [<sup>F23</sup>any of sub-paragraphs (a) to (d) ([<sup>F24</sup>excluding heads (i) and (ii)] of sub-paragraph (d)) of the definition of residential accommodation”] in regulation 21(3)] for a continuous period of more than 12 weeks commencing—

(i) [<sup>F25</sup>subject to paragraph (5A),] where he became an in-patient or, as the case may be, entered that accommodation before the date of the claim for income support, with that date; or

(ii) in any other case, with the date on which he became an in-patient or entered that accommodation,

and, in either case, has not been in regular contact with either the claimant or any member of the claimant's household; or

[<sup>F26</sup>(c) is being looked after by a local authority under a relevant enactment; or]

(d) has been placed with a person other than the claimant prior to adoption; or]

(e) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984; or

(f) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court.

[<sup>F27</sup>(5A) Sub-paragraphs (a)(i), (aa)(i) and (b)(i) of paragraph (5) shall not apply in a case where immediately before the date of claim for income support the claimant was entitled to an income-based jobseeker's allowance.]

(6) A child or young person to whom any of the circumstances mentioned in sub-paragraphs (c) or (f) of paragraph (5) applies shall be treated as being a member of the claimant's household only for that part of any benefit week where that child or young person lives with the claimant.

(7) Where a child or young person for the purposes of attending the educational establishment at which he is receiving relevant education is living with the claimant or his partner and neither one is treated as responsible for that child or young person that child or young person shall be treated as being a member of the household of the person treated as responsible for him and shall not be treated as a member of the claimant's household.

(8) In this regulation—

[<sup>F28</sup>(a) “relevant enactment” means the Army Act 1955, the Social Work (Scotland) Act 1968, the Matrimonial Causes Act 1973, the Adoption (Scotland) Act 1978, the Family Law Act 1986 and the Children Act 1989]

(b) “voluntary organisation” has the meaning assigned to it in the [<sup>F29</sup>Children Act 1989] or, in Scotland, the Social Work (Scotland) Act 1968.

#### Textual Amendments

**F6** Words in reg. 16(1) substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **8(a)**

**F7** Words in reg. 16(1) 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), **6(2)**

**F8** Reg. 16(2) 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), **6(3)**

**F9** 1977 c. 49; section 4 was amended by section 148, Schedule 4, paragraph 47 of the [Mental Health Act 1983 \(c. 20\)](#).

- F10** 1984 c. 36.
- F11** Reg. 16(3)(b) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by The Income-related Benefits Schemes and Social Fund (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1944), regs. 1(1)(a), **6(5)** (with reg. 13)
- F12** Reg. 16(3)(c) omitted (1.4.1993) by virtue of The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations 1992 (S.I. 1992/3147), reg. 1(1), **Sch. 1 para. 1**
- F13** Reg. 16(4)(a)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) Amendment Regulations 1992 (S.I. 1992/468), reg. 1(1), **Sch. para. 3(a)** (with **Sch. para. 11**)
- F14** S.I. 1983/1964.
- F15** S.I. 1984/988.
- F16** Words in reg. 16(5) substituted (11.4.1988) by The Income Support (General) Amendment Regulations 1988 (S.I. 1988/663), regs. 1(1), **8(d)(i)**
- F17** Words in reg. 16(5)(a) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Income Support (General) Amendment Regulations 1990 (S.I. 1990/547), regs. 1(1)(b), **7(a)**
- F18** Words in reg. 16(5)(a)(i) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996 (S.I. 1996/206), **regs. 1(1), 8(2)**
- F19** Words in reg. 16(5)(a) substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Income Support (General) Amendment Regulations 1990 (S.I. 1990/547), regs. 1(1)(b), **7(a)**
- F20** Reg. 16(5)(aa) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Income Support (General) Amendment Regulations 1990 (S.I. 1990/547), regs. 1(1)(b), **7(b)**
- F21** Words in reg. 16(5)(aa)(i) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996 (S.I. 1996/206), regs. 1(1), **8(2)**
- F22** Words in reg. 16(5)(b) substituted (11.4.1988) by The Income Support (General) Amendment Regulations 1988 (S.I. 1988/663), regs. 1(1), **8(d)(ii)**
- F23** Words in reg. 16(5)(b) substituted (with effect in accordance with reg. 1(1)(a) of the amending S.I.) by The Income Support (General) Amendment Regulations 1989 (S.I. 1989/534), regs. 1(1), **3**
- F24** Words in reg. 16(5)(b) substituted (with effect in accordance with reg. 1(1)(c) of the amending S.I.) by The Income Support (General) Amendment Regulations 1989 (S.I. 1989/534), reg. 1(1), **Sch. 1 para. 3**
- F25** Words in reg. 16(5)(b)(i) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996 (S.I. 1996/206), regs. 1(1), **8(2)**
- F26** Reg. 16(5)(c)(d) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) Amendment Regulations 1992 (S.I. 1992/468), reg. 1(1), **Sch. para. 3(b)** (with **Sch. para. 11**)
- F27** Reg. 16(5A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996 (S.I. 1996/206), regs. 1(1), **8(3)**
- F28** Reg. 16(8)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) Amendment Regulations 1992 (S.I. 1992/468), reg. 1(1), **Sch. para. 3(c)(i)** (with **Sch. para. 11**)
- F29** Words in reg. 16(8)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Support (General) Amendment Regulations 1992 (S.I. 1992/468), reg. 1(1), **Sch. para. 3(c)(ii)** (with **Sch. para. 11**)

**Commencement Information**

- I3** Reg. 16 in force at 11.4.1988, see reg. 1

**Status:**

Point in time view as at 01/05/2004.

**Changes to legislation:**

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, PART III.