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STATUTORY INSTRUMENTS

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**1987 No. 1967**

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

**PART IV**

**APPLICABLE AMOUNTS**

**Applicable amounts**

**17.**—(1) Subject to regulations 18 to 22 and 70 (applicable amounts in other cases and reductions in applicable amounts and urgent cases), a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case:

- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 (1), (2) or (3), as the case may be, of Schedule 2;
- (b) an amount determined in accordance with paragraph 2 of Schedule 2 in respect of any child or young person who is a member of his family, except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000;
- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part II of Schedule 2 (family premium);
- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts III and IV of Schedule 2 (premiums);
- (e) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

[<sup>F1</sup>(f) any amounts determined in accordance with [<sup>F2</sup>paragraphs (2) to (7)].]

[<sup>F3</sup>(g) the amount of the protected sum which [<sup>F4</sup>may be applicable to him determined in accordance with Schedule 3A][<sup>F4</sup>or, as the case may be, 3B].

[<sup>F5</sup>(2) Where —

- (a) a claimant has throughout the period beginning on 11th April 1988 and ending immediately before the coming into force of paragraphs 25 to 28 of Schedule 10 (capital to be disregarded) failed to satisfy the capital condition in section 22(6) of the Act (no entitlement to benefit if capital exceeds prescribed amount); and
- (b) as a consequence he is not entitled to any transitional addition, special transitional addition or personal expenses addition under Part II of the Transitional Regulations; and
- (c) had those paragraphs been in force on 11th April 1988 he would have satisfied that condition and been entitled to any such addition,

the amount applicable under this paragraph shall, subject to paragraph (3), be equal to the amount of any transitional addition, special transitional addition and personal expenses addition to which

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he would be entitled under Part II of the Transitional Regulations had he been entitled to any such addition in the week commencing 11th April 1988.]

[<sup>F5</sup>(3) For the purposes of paragraph (2), in determining a claimant's total benefit income in his second benefit week for the purpose of calculating the amount of any transitional addition to which he would have been entitled, no account shall be taken of any payment referred to in paragraph (1) (j) of regulation 9 of the Transitional Regulations (total benefit income) which is made in respect of that week to compensate for the loss of entitlement to income support.]

[<sup>F5</sup>(4) Subject to paragraph (6), where —

- (a) the claimant or any member of his family was temporarily absent from his home in the claimant's first or second benefit week (or both), because he was —
  - (i) a patient; or
  - (ii) outside Great Britain for the purpose of receiving treatment for any disease or bodily or mental disablement or for the purpose of accompanying a child or young person who is outside Great Britain for the purpose of receiving such treatment; or
  - (iii) in a residential care or nursing home or in accommodation provided under any of the provisions referred to in any of sub-paragraphs (a) to (d) of the definition of residential accommodation in regulation 21(3) (special cases); or
  - (iv) in the care of a local authority under a relevant enactment; or
  - (v) staying with a person who was contributing to his maintenance; and
- (b) as a result —
  - (i) in the claimant's first benefit week his requirements for the purpose of calculating his entitlement to supplementary benefit were increased or reduced or he was not entitled to that benefit; or
  - (ii) in the claimant's second benefit week his applicable amount was increased or reduced or he was not entitled to income support; and
- (c) the period during which his requirements were, or his applicable amount was, increased or reduced, or he was not entitled to benefit, or any one or more of those circumstances existed, did not exceed 8 weeks,

the amount applicable under this paragraph shall be equal to the amount determined under paragraph (5).]

[<sup>F5</sup>(5) The amount for the purposes of paragraph (4) shall be an amount equal to the difference between —

- (a) the amount that his total benefit income in his first benefit week would have been had he been entitled in respect of that week to supplementary benefit calculated on the basis that he or any member of his family had not been absent from the home; and, if less,
- (b) the amount of his total benefit income in the first complete week after the period of temporary absence ends; but for the purpose of calculating his total benefit income in that week —
  - (i) no account shall be taken of any payment referred to in paragraph (1)(j) of regulation 9 of the Transitional Regulations which is made in respect of that week to compensate for the loss (in whole or in part) of entitlement to income support; and
  - (ii) if the period of temporary absence ends after the coming into force of paragraph (4), the amount of income support to be taken into account shall, notwithstanding regulation 9(6) of the Transitional Regulations, be calculated as if that paragraph were not in force.]

[<sup>F5</sup>(6) The amount under paragraph (4) shall cease to be applicable to a claimant if he ceases to be entitled to income support for a period exceeding [<sup>F6</sup>the permitted period determined in accordance with regulation 3A (permitted period)].]

[<sup>F7</sup>(6A) For the purposes of paragraph (6), where a claimant has ceased to be entitled to income support because he or his partner is participating in arrangements for training made under section 2 of the Employment and Training Act 1973 or attending a course at an employment rehabilitation centre established under that section, he shall be treated as if he had been entitled to income support for the period during which he or his partner is participating in such arrangements or attending such a course.]

[<sup>F5</sup>(7) In this Regulation —

“first benefit week” and “second benefit week” have the meanings given to those expressions in regulations 2(1) of the Transitional Regulations and shall also include the week which would have been the claimant’s “first benefit week” or, as the case may be, “second benefit week” had he been entitled to supplementary benefit or, as the case may be, income support in that week; “total benefit income” has, subject to paragraphs (3) and (5)(b), the same meaning as in regulation 9 of the Transitional Regulations;

“Transitional Regulations” means the Income Support (Transitional) Regulations 1987.]

#### Textual Amendments

- F1** Reg. 17(f) added (30.5.1988) by [The Income Support \(General\) Amendment No. 2 Regulations 1988 \(S.I. 1988/910\)](#), regs. 1(1), 2
- F2** Words in reg. 17(1)(f) substituted (10.4.1989) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), reg. 1(1)(c), **Sch. 1 para. 11(a)** (with reg. 28)
- F3** Reg. 17(1)(g) added (10.4.1989) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), reg. 1(1)(c), **Sch. 1 para. 11(b)** (with reg. 28)
- F4** Words in reg. 17(1)(g) added (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. 17**
- F5** Reg. 17(2)-(7) added (30.5.1988) by [The Income Support \(General\) Amendment No. 2 Regulations 1988 \(S.I. 1988/910\)](#), regs. 1(1), 2
- F6** Words in reg. 17(6) substituted (9.10.1989) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(a), **4(a)**
- F7** Reg. 17(6A) inserted (9.10.1989) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(a), **4(b)**

#### Modifications etc. (not altering text)

- C1** Reg. 17(1)(b) sum confirmed (coming into force in accordance with art. 1(2)(e) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1990 \(S.I. 1990/320\)](#), arts. 1(2)(e), **14(2)**

#### Commencement Information

- I1** Reg. 17 in force at 11.4.1988, see reg. 1

### Polygamous marriages

18.—[<sup>F8</sup>(1)] [<sup>F9</sup>Subject to paragraph (2) and regulations] 19 to 22 and 70 (applicable amounts in other cases and reductions in applicable amounts and urgent cases), where a claimant is a member of a polygamous marriage his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case:

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- (a) the highest amount applicable to him and one of his partners determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 2 as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in [<sup>F10</sup>sub-paragraphs (3) (c)] [<sup>F11</sup>and (1)(e)] of paragraph 1 of Schedule 2 in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 2 of Schedule 2 (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000;
- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part II of Schedule 2 (family premiums);
- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 2 (premiums);
- (f) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.
- [<sup>F12</sup>(g) any amount determined in accordance with regulation 17(1)(f) (applicable amounts);]
- [<sup>F13</sup>(h) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A] [<sup>F14</sup>or, as the case may be, 3B].
- [<sup>F15</sup>(2) In the case of a partner who is aged less than 18, the amount which applies in respect of that partner shall be nil unless—
  - (a) that partner is treated as responsible for a child, or
  - (b) that partner is a person who—
    - (i) had he not been a member of a polygamous marriage would have been eligible for income support by virtue of regulation 13A (circumstances in which a person aged 16 or 17 is eligible for income support); or
    - (ii) is a person in respect of whom there is a direction under section 20(4A) of the Act (income support to avoid severe hardship).]

#### Textual Amendments

- F8** Reg. 18 renumbered as reg. 18(1) (12.9.1988) by [The Income Support \(General\) Amendment No. 3 Regulations 1988 \(S.I. 1988/1228\)](#), regs. 1(1)(b), **5(a)**
- F9** Words in reg. 18(1) substituted (12.9.1988) by [The Income Support \(General\) Amendment No. 3 Regulations 1988 \(S.I. 1988/1228\)](#), regs. 1(1)(b), **5(a)**
- F10** Words in reg. 18(1)(b) substituted (12.9.1988) by [The Income Support \(General\) Amendment No. 3 Regulations 1988 \(S.I. 1988/1228\)](#), regs. 1(1)(b), **5(b)**
- F11** Words in reg. 18(1)(b) substituted (10.7.1989) by [The Family Credit and Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/1034\)](#), regs. 1(1)(a), **5**
- F12** Reg. 18(1)(g) added (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **6**
- F13** Reg. 18(1)(h) added (10.4.1989) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), reg. 1(1)(c), **Sch. 1 para. 12** (with reg. 28)
- F14** Words in reg. 18(1)(h) added (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. 17**
- F15** Reg. 18(2) added (12.9.1988) by [The Income Support \(General\) Amendment No. 3 Regulations 1988 \(S.I. 1988/1228\)](#), regs. 1(1)(b), **5(c)**

**Modifications etc. (not altering text)**

- C2** Reg. 18(1)(c) sum confirmed (coming into force in accordance with art. 1(2)(e) of the amending S.I.) by The Social Security Benefits Up-rating Order 1990 (S.I. 1990/320), arts. 1(2)(e), 14(2)

**Commencement Information**

- I2** Reg. 18 in force at 11.4.1988, see reg. 1

**Applicable amounts for persons in residential care and nursing homes**

19.—<sup>F16</sup>(1) Subject to regulation 22 (reduction of applicable amounts) where—

- (a) the claimant lives in a residential care home or nursing home; or
- (b) if the claimant is a member of a family, he and the members of his family live in such a home,

his weekly applicable amount shall, except in a case to which regulation 21 (applicable amounts in special cases) or Part II of Schedule 4 (persons to whom regulation 19 does not apply) applies, be calculated in accordance with Part I of that Schedule.

(1A) For the purposes of paragraph (1)(b) <sup>F17</sup>and Schedule 4] a claimant and the members of his family are to be taken as living in a residential care home or nursing home even during periods when one or more members of the family are temporarily absent from the home but only if the claimant or his partner is living in the home during any such period.]

(2) Where—

- (a) a claimant immediately before 27th July 1987 was in receipt of supplementary benefit as a boarder 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 (registration) applied to it; and
- (b) immediately before 11th April 1988 his appropriate amount fell to be determined, by virtue of regulation 3 of the Supplementary Benefit (Requirements and Resources) Amendment Regulations 1987 <sup>F18</sup>(transitional provisions), in accordance with paragraph 1 of Schedule 1A to the Supplementary Benefit Requirements Regulations 1983 <sup>F19</sup>(maximum amounts for residential care homes) or would have been so determined but for his temporary absence from the home,

his weekly applicable amount shall be calculated in accordance with Part I of Schedule 4 (applicable amounts of persons in residential care homes or nursing homes) as if the home was a residential care home within the meaning of this regulation if, and for so long as, the claimant remains resident in the same home apart from any temporary absence, and the home continues to provide accommodation with board and personal care for the claimant by reason of his old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder.

(3) In this regulation and Schedule 4—

“nursing home” means—

- (a) premises which are a nursing home or mental nursing home within the meaning of the Registered Homes Act 1984 <sup>F20</sup> and which are either registered under Part II of that Act or exempt from registration under section 37 thereof (power to exempt Christian Science Homes); or
- (b) any premises used or intended to be used for the reception of such persons or the provision of such nursing or services as is mentioned in any paragraph of subsection (1) of section 21 or section 22 (1) of the Registered Homes Act 1984 (meaning of nursing home or mental nursing home) or, in Scotland, as are mentioned in section 10 (2) of

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the Nursing Homes Registration (Scotland) Act 1938 <sup>F21</sup> (interpretation) and which are maintained or controlled by a body instituted by special Act of Parliament or incorporated by Royal Charter;

- (c) in Scotland,
  - (i) premises which are a nursing home within the meaning of section 10 of the Nursing Homes Registration (Scotland) Act 1938 which are either registered under that Act or exempt from registration under section 6 or 7 thereof (general power to exempt homes and power to exempt Christian Science Homes); or
  - (ii) premises which are a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984 <sup>F22</sup> (private hospitals), and which are registered under that Act;

“residential care home” means an establishment—

- (a) [<sup>F23</sup>which is required to be registered under Part I of the Registered Homes Act 1984 and is so registered; or]
- (b) [<sup>F23</sup> in England or Wales,] which provides residential accommodation with both board and personal care <sup>F24</sup>... for fewer than four 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) at least two employed or self-employed persons (referred to in this paragraph as responsible persons) are each engaged in providing personal care to residents of the establishment for a minimum of 35 hours a week and those persons are not engaged in any other remunerative work; and
  - (ii) each of those responsible persons has 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) at least one responsible person is on call throughout the night to care for residents of the establishment; and
  - (v) all residents have free access to the premises at all times; or
- (c) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or
- (d) [<sup>F25</sup>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 Act of Parliament other than a local social services authority; or
- (e) in Scotland, which is a home registered under section 61 of the Social Work (Scotland) Act 1968 <sup>F26</sup> or is an establishment provided by a housing association registered with the Housing Corporation established by the Housing Act 1964 <sup>F27</sup> which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968;

[<sup>F28</sup>and in paragraphs (b) and (d) of this definition “personal care” means personal care for persons in need of personal care by reason of [<sup>F29</sup>old] age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder.]

“temporary absence” means—

- (a) [<sup>F30</sup>in paragraph (2) or] in the case of a person who is over pensionable age, 52 weeks;
- (b) in any other case, 13 weeks.

(4) In Schedule 4 the expressions “old age”, “mental disorder”, “mental handicap”, “drug or alcohol dependence” and “disablement” have the same meanings as those expressions have for the purposes of the Registered Homes Act 1984 and Regulations made thereunder.

[<sup>F31</sup>(5) Notwithstanding the foregoing paragraphs of this regulation, 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,

the applicable amount of a person resident in those premises shall be determined under Schedule 4 as if the most recent registration under the Registered Homes Act 1984 in respect of those premises continued until the day on which the application is determined or abandoned.]

### Textual Amendments

- F16** Reg. 19(1)(1A) substituted for reg. 19(1) (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **9(a)**
- F17** Words in reg. 19(1A) inserted (9.10.1989) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(a), **5(a)**
- F18** S.I. 1987/1325.
- F19** S.I. 1983/1399; the relevant amending instruments are [S.I. 1985/1835](#) and [1986/1292](#).
- F20** 1984 c. 23.
- F21** 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 \(c. 36\)](#). Section 10 was also amended by Schedule 7 of the [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Schedules 7** and 8 of the [Nurses, Midwives and Health Visitors Act 1979 \(c. 36\)](#) and by Schedule 7 of the [Health Services Act 1980 \(c. 53\)](#) and subsection (2) of that section 10 was added by section 26 of, and paragraph 14 of Schedule 4 to the [Health Services Act 1980 \(c. 53\)](#).
- F22** 1984 c. 36.
- F23** Words in reg. 19(3) substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **9(b)(i)**
- F24** Words in reg. 19(3)(b) omitted (12.9.1988) by virtue of [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **7(a)**
- F25** Words in reg. 19(3)(d) inserted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **7(b)**
- F26** 1968 c. 49, **section 61** was amended by the [Criminal Proceedings \(Scotland Act\) 1975 \(c. 21\)](#), **section 289C** and G and Schedule 7C.
- F27** 1964 c. 56.
- F28** Words in reg. 19(3) inserted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **7(c)**
- F29** Word in reg. 19(3) inserted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **4**
- F30** Words in reg. 19(3) inserted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **9(b)(ii)**
- F31** Reg. 19(5) added (9.10.1989) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(a), **5(b)**

### Commencement Information

- I3** Reg. 19 in force at 11.4.1988, see reg. 1

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## Applicable amounts for persons in board and lodging accommodation and hostels

<sup>F32</sup>20. ....

### Textual Amendments

**F32** Reg. 20 omitted (with effect in accordance with reg. 1(1)(c) of the amending S.I.) by virtue of [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), reg. 1(1), [Sch. 1 para. 4](#)

### Commencement Information

**I4** Reg. 20 in force at 11.4.1988, see reg. 1

## Special cases

**21.—(1)** Subject to [<sup>F33</sup>regulations 21A and 22] (reductions in applicable amounts) in the case of a person to whom any paragraph in column (1) of Schedule 7 applies (applicable amounts in special cases), the amount included in the claimant's weekly amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule; but no amount shall be included in respect of a child or young person if the capital of that child or young person calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

(2) In Schedule 7, for the purposes of paragraph 1, 2, 3 or 18 (patients), where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(3) In Schedule 7—

“person from abroad” means a person, who—

- (a) has a limited leave as defined in section 33(1) of the Immigration Act 1971 <sup>F34</sup> (hereinafter referred to as “the 1971 Act”) to enter or remain in the United Kingdom which was given in accordance with any provision of the immigration rules (as defined in that section) which refers to there being, or to there needing to be, no recourse to public funds or to there being no charge on public funds during that limited leave; but this sub-paragraph shall not apply to a person who is a national of a Member State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) <sup>F35</sup>, the Channel Islands or the Isle of Man [<sup>F36</sup>unless, in the case of a national of a state which is a signatory of that European Convention, he has made an application for the conditions of his leave to remain in the United Kingdom to be varied, and that application has not been determined or an appeal from that application is pending under Part II of the 1971 Act (appeals);] or
- (b) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (c) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom; or
- (d) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom; or



- (e) has been allowed temporary admission to the United Kingdom by virtue of paragraph 21 of Schedule 2 to the 1971 Act; or
- (f) has been allowed temporary admission to the United Kingdom by the Secretary of State outside any provision of the 1971 Act; or
- (g) has not had his immigration status determined by the Secretary of State;

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975<sup>F37</sup>.

“prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person whose detention is under the provisions of the Mental Health Act 1983<sup>F38</sup> or Mental Health (Scotland) Act 1984;

“residential accommodation” means, subject to paragraph (4), accommodation for a person whose stay in the accommodation has become other than temporary which is accommodation provided under—

- (a) sections 21 to 24 and 26 of the National Assistance Act 1948<sup>F39</sup> (provision of accommodation); or
- (b) in Scotland, for the purposes of section 27 of the National Health Service (Scotland) Act 1947<sup>F40</sup> (prevention of illness and after-care) or under section 59 of the Social Work (Scotland) Act 1968<sup>F41</sup> (provision of residential and other establishments) other than in premises which are registered under section 61 of that Act (registration) and which are used for the rehabilitation of alcoholics or drug addicts; or
- (c) under section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities); or
- (d) under section 21 of, and paragraph 1 or 2 of Schedule 8 to, the National Health Service Act 1977<sup>F42</sup> (care of mothers and young children, prevention, care and aftercare) by a local social services authority other than—
  - (i) such accommodation [<sup>F43</sup>where no board is] available to the person; or
  - (ii) accommodation provided under the said section 21 and paragraph 2 which is registered under the provisions of Part I of the Registered Homes Act 1984 where the premises are used for the rehabilitation of alcoholics or drug users; or
  - (iii)<sup>F44</sup> ...

(4) A person who would, but for this paragraph, be in residential accommodation within the meaning of paragraph (3) shall not be treated as being in residential accommodation if he is a person—

- (a) who is under the age of 18 and in the care of a local authority under Part II or III of the Social Work (Scotland) Act 1968 (promotion of social welfare of children in need of care), or
- (b) who is staying in a residential care home as defined in regulation 19(3) (applicable amounts for persons in residential care and nursing homes) under the provisions referred to in subparagraph (b) to (d) of paragraph (3) where—
  - (i) the weekly cost of such accommodation exceeds the maximum amount provided for under regulation 19 and paragraphs 6, 8, 9, 10 and 11 of Schedule 4 (applicable amounts of persons in residential care and nursing homes) in respect of such accommodation; and
  - (ii) the local authority accepts responsibility for the making of arrangements for the provision of such accommodation for that person in the light of that person being entitled to such maximum amount as a person in a residential care home under and

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by virtue of that regulation, provided that in the case of a person over pensionable age the local authority had accepted such responsibility for a period of not less than 2 years immediately before that person attained pensionable age.

(5) A claimant to whom paragraph 19 of Schedule 7 (disability premium) applies shall be entitled to income support for the period in respect of which that paragraph applies to him notwithstanding that his partner was also entitled to income support for that same period.

### Textual Amendments

- F33** Words in [reg. 21\(1\)](#) substituted (17.12.1990) by [The Income Support \(General and Transitional\) Amendment Regulations 1990 \(S.I. 1990/2324\)](#), regs. 1(1), [2](#)
- F34** 1971 c. 77, as amended by the [British Nationality Act 1981 \(c. 61\)](#), [section 39](#) and Schedule 4.
- F35** Cmnd 9512.
- F36** Words in [reg. 21\(3\)](#) 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), [8](#)
- F37** [S.I. 1975/555](#), the relevant amending instruments are [1977/1693](#) and [1987/1683](#).
- F38** 1983 c. 72.
- F39** 1948 c. 29; section 21 was amended by the [Local Government Act 1972 \(c. 70\)](#), [Schedule 23](#), paragraphs 1 and 2 and Schedule 30; the [National Health Service Reorganisation Act 1973 \(c. 32\)](#), [Schedule 4](#), paragraph 44 and Schedule 5; the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), [Schedule](#); the [National Health Service Act 1977 \(c. 49\)](#), [Schedule 15](#), paragraph 5; the [Health Services Act 1980 \(c. 53\)](#), [Schedule 1](#), Part I, paragraph 5. Section 22 was amended by the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), [section 87\(4\)](#) and Schedule 9, Part I; the [Supplementary Benefits Act 1976 \(c. 71\)](#), [Schedule 7](#), paragraph 3; the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), [Schedule](#); the [Social Security Act 1980 \(c. 30\)](#), section 20, [Schedule 4](#), paragraph 2(1) and Schedule 5, Part II and the [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), [section 20\(1\)\(a\)](#). Section 24 was amended by the [National Assistance \(Amendment\) Act 1959 \(c. 30\)](#), [section 1\(1\)](#); the [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Schedule 6](#), paragraph 82; the [Local Government Act 1972 \(c. 70\)](#), [Schedule 23](#), paragraph 2; the [National Health Service Reorganisation Act 1972 \(c. 32\)](#), [Schedule 4](#), paragraph 45 and the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), [Schedule](#). Section 26 was amended by the [Health Services and Public Health Act 1968 \(c. 46\)](#), [section 44](#) and Schedule 4 and the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#) Schedule 9, Part I and applied by section 87(3); the [Local Government Act 1972 \(c. 70\)](#), [Schedule 23](#), paragraph 2; the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), [Schedule](#) and the [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), [section 20\(1\)\(b\)](#).
- F40** 1947 c. 27, as applied by section 1(4)(c) of the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), [section 27](#) for the purposes of section 1(4)(c) of the 1968 Act is continued in force by paragraph 15 of Schedule 15 to the [National Health Service \(Scotland\) Act 1978 \(c. 29\)](#).
- F41** 1968 c. 49.
- F42** 1977 c. 49, [paragraph 1\(2\)](#) and 2(5) of Schedule 8 were repealed by section 30 of, and Schedule 10 to, the [Health and Social Services and Social Security Adjudications Act 1983](#), and paragraph 2(1) and (3) of Schedule 8 were amended by section 148 of, and Schedule 4 to, the [Mental Health Act 1983 \(c. 20\)](#).
- F43** Words in [reg. 21\(3\)\(d\)\(i\)](#) 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. 5\(i\)](#)
- F44** [Reg. 21\(3\)\(d\)\(iii\)](#) omitted (with effect in accordance with [reg. 1\(1\)\(c\)](#) of the amending S.I.) by virtue of [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), reg. 1(1), [Sch. 1 para. 5\(ii\)](#)

**Modifications etc. (not altering text)**

- C3** Reg. 21(1) sum confirmed (coming into force in accordance with art. 1(2)(e) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1990 \(S.I. 1990/320\)](#), arts. 1(2)(e), **14(2)**

**Commencement Information**

- I5** Reg. 21 in force at 11.4.1988, see reg. 1

**[<sup>F45</sup>Reductions in applicable amounts in certain cases of failure to attend courses**

**21A.**—(1) The weekly applicable amount of a claimant to whom paragraph (3) applies shall be reduced in each relevant week by a sum equal to the appropriate percentage of the relevant amount which applies in his case.

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(3) Except where paragraph (4) applies, this paragraph applies to a claimant where—

- (a) he has been notified of a relevant course;
- (b) he has during the period of 2 years which ended on the day on which he was notified of that course been in receipt of benefit—
  - (i) without any period of interruption;
  - (ii) with a period of interruption which did not exceed 56 days; or
  - (iii) with a number of periods of interruption, none of which exceeded 56 days;
- (c) his entitlement to benefit during the whole of that period of two years, or such part of it as the claimant in question was in receipt of benefit, was subject to the condition that he was available for employment;
- (d) his entitlement to income support is not subject to a reduction in the relevant week under regulation 22 (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification); and
- (e) he has failed to attend the whole or any part of that course.

(4) This paragraph shall apply where the claimant's failure to attend a relevant course is attributable to any of the following circumstances—

- (a) the claimant in question was suffering from some disease or bodily or mental disablement on account of which—
  - (i) he was not able to attend the relevant course in question; or
  - (ii) his attendance at that course would have put at risk the health of other persons;
- (b) the time it took, or would normally have taken, for the claimant to travel from his home to the course and back to his home by a route and means appropriate to his circumstances and to the course exceeded, or would normally have exceeded, one hour in either direction;
- (c) the claimant was caring for a member of his household where—
  - (i) that member was unable to care for himself;
  - (ii) no other member of that household was available to care for him; and
  - (iii) in the circumstances of the case it was not practical for the claimant to make other arrangements for the care of that member;
- (d) the claimant was attending court under a requirement to attend as a party to any proceedings, or as a witness or a juror;
- (e) the claimant was arranging or attending the funeral of a partner or relative;

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- (f) the claimant was engaged in—
    - (i) the manning or launching of a lifeboat; or
    - (ii) the performance of duty as a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959;
  - (g) the claimant was required to deal with some domestic emergency; or
  - (h) the claimant was providing assistance in response to an emergency.
- (5) A claimant shall be treated as having provided assistance in response to an emergency for the purposes of paragraph (4)(h) only—
- (a) he was a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection; and he—
    - (i) provided assistance to any person whose life may have been endangered or who may have been exposed to the risk of serious bodily injury or whose health may have been seriously impaired;
    - (ii) protected property of substantial value from imminent risk of serious damage or destruction; or
    - (iii) assisted in measures being taken to prevent a serious threat to health;
  - (b) the events which may have given rise to an emergency include—
    - (i) a fire, a flood or an explosion;
    - (ii) a natural catastrophe;
    - (iii) a railway or other accident;
    - (iv) a cave or mountain accident;
    - (v) a search for a person reported missing.
- (6) For the purposes of this regulation—
- “appropriate percentage” means 40 per cent. except that where the circumstances of a case fall within those set out in regulation 22(2) it means 20 per cent;
- “benefit” means income support or unemployment benefit or, if they are received in respect of the same benefit week, both of those benefits;
- “notified” means notified in writing by the Secretary of State for Employment by a notice which specifies in relation to the relevant course which the claimant may attend—
- (i) the date of the course, or if the duration of the course is to exceed one day, the date of each day of the course;
  - (ii) the time when the course is to begin, or if it is to begin at different times on different days, each of those times; and
  - (iii) the place at which the course is to be held, or, if it is to be held at more than one place, each of those places;
- “relevant amount” has the same meaning as in regulation 22(1);
- “relevant course” means a course or programme provided by the Secretary of State for Employment for the purpose of improving the prospects of unemployed persons entering or returning to employment other than any such course or programme which—
- (a) is provided for the purpose of training for employment or acquiring work experience; or
  - (b) exceeds 5 weeks in duration;
- “relevant week” means the benefit week which includes the Friday which falls more than 6 but less than 14 days after the Saturday of the week in which the claimant in question failed to attend the whole or any part of a relevant course.]

### Textual Amendments

**F45** Reg. 21A inserted (17.12.1990) by The Income Support (General and Transitional) Amendment Regulations 1990 (S.I. 1990/2324), regs. 1(1), 3

### Reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification

**22.**—(1) The weekly applicable amount of a claimant to whom paragraph (4) or (5) applies shall, subject to paragraph (2), be reduced by a sum equal to 40 per cent of the following amount (hereinafter referred to as the “relevant amount”)—

- (a) in the case of a person to whom regulation 17 or 18 or paragraph 4 to 6, 9 to 12, 16, 17(c) (i) or (d)(i) of Schedule 7 applies—
  - (i) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in [<sup>F46</sup>paragraph 1(1)(a), (b) or (c), as the case may be,] of Schedule 2 (applicable amounts);
  - (ii) where he is a single claimant aged not less than 18 but less than 25 [<sup>F47</sup>or a member of a couple or polygamous marriage where one member is aged not less than 18 but less than 25 and the other member, or in the case of a polygamous marriage each other member, is a person under 18 who is not eligible for income support under regulation 13A (persons under 18 years), or is not the subject of a direction under section 20(4A) (severe hardship direction)], the amount specified in [<sup>F48</sup>paragraph 1(1)(d)] of that Schedule;
  - (iii) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage [<sup>F49</sup>(other than a member of a couple or polygamous marriage to whom head (ii) of this sub-paragraph applies)] at least one of whom is aged not less than 18, the amount specified in [<sup>F50</sup>paragraph 1(1)(e)] of that Schedule;
- (b) in the case of a person to whom [<sup>F51</sup>regulation 19 (applicable amounts for persons in residential care and nursing homes) applies, the amount allowed for personal expenses for him specified in paragraph 13 of Schedule 4.]

(2) Where—

- (a) the claimant's capital calculated in accordance with Part V (including any capital treated as his) does not exceed £200; and
  - (b) he or any member of his family is either pregnant or seriously ill,
- his weekly applicable amount shall be reduced by a sum equal to 20 per cent of the relevant amount in his case.

(3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(4) This paragraph applies to a claimant—

- (a) whose weekly applicable amount is calculated otherwise than in accordance with regulation 21 and paragraph 1 to 3, 8(b), 13, 16 and 18 of Schedule 7; and
- (b) whose right to income support is, under section 20(3)(d)(i) of the Act (conditions of entitlement to income support), subject to the condition of availability for employment; and
- (c) who—

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- (i) is disqualified for receiving unemployment benefit under section 20(1) of the Social Security Act <sup>F52</sup> (disqualifications etc); or
  - (ii) has made a claim for unemployment benefit which has not been determined by an adjudication officer and in respect of which, in the opinion of an adjudication officer, a question as to disqualification under that section arises; or
  - (iii) has not made a claim for unemployment benefit or has had such a claim disallowed other than by reason of section 20(1) and, in either case, would be so disqualified if he were to make such a claim or it had not been so disallowed.
- (5) This paragraph applies to a claimant who is not required to be available for employment by virtue of regulation 8(2) [<sup>F53</sup> or 8(3)] (persons not required to be available for employment) [<sup>F54</sup> or a claimant who is not required to be actively seeking employment by virtue of regulation 10A(2) (actively seeking employment)] or a person to whom regulation 11(2) applies (exemption from requirement to register for employment).
- (6) This regulation shall apply—
- (a) in a case to which head (i) of paragraph (4)(c) applies, for the period of the disqualification;
  - (b) in a case to which head (ii) of paragraph (4)(c) applies, for a period of [<sup>F55</sup>13][<sup>F55</sup>26] weeks except that where, on subsequent determination of the claim for unemployment benefit—
    - (i) disqualification is not imposed, any reduction imposed under paragraph (1) or (2), as the case may be, shall be withdrawn,
    - (ii) disqualification is imposed but for a period of less than [<sup>F55</sup>13][<sup>F55</sup>26] weeks, the period of such reduction shall be adjusted to correspond with the period of disqualification;
  - (c) in a case to which head (iii) of paragraph (4)(c) applies, for the period for which the claimant would be disqualified if he were to make a claim for unemployment benefit or if such a claim had not been disallowed for other reasons.
  - (d) in a case to which paragraph (5) applies, for so long as that paragraph continues so to apply.

#### Textual Amendments

- F46** Words in reg. 22(1)(a)(i) substituted (10.7.1989) by [The Family Credit and Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/1034\)](#), regs. 1(1)(a), **6(a)**
- F47** Words in reg. 22(1)(a)(ii) 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), **9(a)**
- F48** Words in reg. 22(1)(a)(ii) substituted (10.7.1989) by [The Family Credit and Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/1034\)](#), regs. 1(1)(a), **6(b)**
- F49** Words in reg. 22(1)(a)(iii) 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), **9(b)**
- F50** Words in reg. 22(1)(a)(iii) substituted (10.7.1989) by [The Family Credit and Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/1034\)](#), regs. 1(1)(a), **6(c)**
- F51** Words in reg. 22(1)(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. 6**
- F52** 1975 c. 14; subsection (1) was amended and subsection (1A) was added by the [Social Security Act 1986 \(c. 5\)](#), section 43.
- F53** Words in reg. 22(5) inserted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **11(a)**
- F54** Words in reg. 22(5) inserted (9.10.1989) by [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **7**

**F55** Word in reg. 22 substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **11(b)**

**Commencement Information**

**I6** Reg. 22 in force at 11.4.1988, see reg. 1

**Status:**

Point in time view as at 17/12/1990.

**Changes to legislation:**

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