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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 [<sup>F1</sup>18 to 22A] 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, [<sup>F2</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000;
- [<sup>F3</sup>(bb) an amount in respect of himself, or where the claimant is a member of a family, an amount in respect of any member of the family aged 16 or over, determined in accordance with paragraph 2A of Schedule 2 (residential allowance);]
- (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>F4</sup>(f) any amounts determined in accordance with [<sup>F5</sup>paragraphs (2) to (7)].]
- [<sup>F6</sup>(g) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A][<sup>F7</sup>or, as the case may be, 3B].
- [<sup>F8</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

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- (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 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>F8</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>F8</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>F8</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>F8</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>F9</sup>the permitted period determined in accordance with regulation 3A (permitted period)].]

[<sup>F10</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 [<sup>F11</sup>or section 2 of the Enterprise and New Towns (Scotland) Act 1990] or attending a course at an employment rehabilitation centre established under that section [<sup>F12</sup>of the 1973 Act], 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>F8</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** Words in reg. 17(1) substituted (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), **9**
- F2** Words in reg. 17(1)(b) 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), **7**
- F3** Reg. 17(1)(bb) inserted (1.4.1993) by [The Social Security Benefits \(Amendments Consequential Upon the Introduction of Community Care\) Regulations 1992 \(S.I. 1992/3147\)](#), regs. 1(1), **2(1)(b)**
- F4** 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**
- F5** 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)
- F6** 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)
- F7** 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**
- F8** 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**
- F9** 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)**
- F10** 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)**
- F11** Words in reg. 17(6A) inserted (1.4.1991) by [The Enterprise \(Scotland\) Consequential Amendments Order 1991 \(S.I. 1991/387\)](#), arts. 1, 2, **Sch.**

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**F12** Words in reg. 17(6A) inserted (1.4.1991) by [The Enterprise \(Scotland\) Consequential Amendments Order 1991 \(S.I. 1991/387\)](#), arts. 1, **9(c)**

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

**C1** [Reg. 17\(1\)\(b\)](#) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), **16(2)**

**Commencement Information**

**I1** Reg. 17 in force at 11.4.1988, see [reg. 1](#)

**Polygamous marriages**

**18.**—<sup>F13</sup>(1) <sup>F14</sup>Subject to paragraph (2) and regulations<sup>F15</sup> 19 to 22A] 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:

- (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>F16</sup>sub-paragraphs (3) (d)]<sup>F17</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, <sup>F18</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000;
  - <sup>F19</sup>(cc) an amount, whether in respect of the claimant or any member of his household aged 16 or over, determined in accordance with paragraph 2A of Schedule 2 (residential allowance);]
  - (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>F20</sup>(g) any amount determined in accordance with regulation 17(1)(f) (applicable amounts);]
  - <sup>F21</sup>(h) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A]<sup>F22</sup> or, as the case may be, 3B].
- <sup>F23</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
  - <sup>F24</sup>(b) that partner is a person who—
    - (i) had he not been a member of a polygamous marriage would have qualified for income support under regulation 4ZA; or
    - (ii) satisfies the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); or

(iii) is the subject of a direction under section 16 of the Jobseekers Act 1995 (persons under 18: severe hardship).]]

#### Textual Amendments

- F13** 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)**
- F14** 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)**
- F15** Words in reg. 18(1) substituted (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), **10(2)(a)**
- F16** Words in reg. 18(1)(b) substituted (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), **10(2)(b)**
- F17** 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**
- F18** Words in reg. 18(1)(c) 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), **8**
- F19** Reg. 18(1)(cc) inserted (1.4.1993) by [The Social Security Benefits \(Amendments Consequential Upon the Introduction of Community Care\) Regulations 1992 \(S.I. 1992/3147\)](#), regs. 1(1), **2(1)(c)**
- F20** 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**
- F21** 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)
- F22** 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**
- F23** 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)**
- F24** Reg. 18(2)(b) substituted (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), **10(3)**

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

- C2** Reg. 18(1)(c) modified (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), **16(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>F25</sup>[<sup>F26</sup>(1) Subject to <sup>F27</sup>[regulation 22A] (reduction of applicable amounts) where a claimant has a preserved right and either—

- (a) lives in a residential care or nursing home; or
- (b) is a member of a family and 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.]

*Status: Point in time view as at 09/04/2001.*

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[<sup>F28</sup>(1ZA) A person to whom paragraph (1) applies shall be treated as not being severely disabled.]

[<sup>F29</sup>(1ZB) In this regulation a person has a preserved right, subject to paragraphs (1ZE) and (1ZF), where—

- (a) on 31st March 1993, he was living in a residential care home or a nursing home, and—
  - (i) was entitled to income support for the benefit week in which that day fell and his applicable amount was calculated in accordance with Part I of Schedule 4; or
  - (ii) was not in that week entitled to income support because he was able to meet the cost of the accommodation from other sources available to him, but subsequently becomes entitled to income support; or

[ was not in that week entitled to income support, but was residing with his partner as <sup>F30</sup>(iii) a member of a couple on the relevant date where the partner was a person to whom head (i) or (ii) applies; or]

- (b) he would have been living in a residential care home or nursing home on 31st March 1993 but for an absence which, including that day, does not exceed—
  - (i) except in a case to which head (ii) applies—
    - (aa) where the person was before his absence a temporary resident in the home, 4 weeks, or
    - (bb) where the person was before his absence a permanent resident in the home, 13 weeks; or
  - (ii) where throughout the period of absence the person was a patient, 52 weeks, and the provisions of sub-paragraph (a) would have applied to him but for that absence.

(1ZC) Subject to paragraphs (1ZD), (1ZE) and (1ZF), a person also has a preserved right where—

- (a) on 31st March 1993 he was living in a residential care home or nursing home within the meaning of paragraph (3) as then in force, and was entitled to income support but his applicable amount was not calculated in accordance with Part I of Schedule 4 because he was a person to whom paragraph 14 of Schedule 4 applied (accommodation provided by a close relative); and
- (b) after 31st March 1993, either—
  - (i) he moved from the home in which he was residing on that date to another residential care home or nursing home, or
  - (ii) the ownership of the home changed,

and in the home to which he moved, or as the case may be, following the change of ownership, the accommodation and meals (if any) are provided for him by a person other than a close relative of his [<sup>F31</sup>or of any member] of his family, and are provided on a commercial basis.

(1ZD) Where a person has a preserved right under paragraph (1ZC), that right shall commence on the first full day of residence in the residential care home or nursing home to which he moved, or as the case may be, the day after the ownership of the [<sup>F32</sup>home] changed.

(1ZE) [<sup>F33</sup>In England and Wales,] a person does not have a preserved right by virtue of paragraph (1ZB)(a)(ii) or (1ZC) where the residential care home in which he was living provided both board and personal care for less than 4 persons.

[<sup>F34</sup>(1ZEA) Where, in Scotland, a person would have had a preserved right by virtue of paragraph (1ZB)(a)(ii) or (1ZC) but for the provisions of paragraph (1ZE) as it originally had effect,

that person shall be treated from the date this regulation has effect in respect of him as though the first two paragraphs referred to continued to have effect in his case.]

(1ZF) Paragraphs (1ZB) and (1ZC) shall cease to apply to a person who has a preserved right where he is absent from a residential care home or nursing home and that absence exceeds a period of—

- (a) except in a case to which sub-paragraph (b) applies—
  - (i) 4 weeks, where the person was before his absence a temporary resident in the home, or,
  - (ii) 13 weeks, where the person was before his absence a permanent resident in the home; or
- (b) 52 weeks where throughout the period of absence the person was a patient.

- (a) (1ZG) (a) A person who acquired a preserved right under paragraph (1ZB) or (1ZC) shall cease to have that right where either—
  - (i) he moves from the home he resided in, or would but for an absence specified in paragraph (1ZB)(b) have resided in, on 31st March 1993 to another residential care home or nursing home, or
  - (ii) the ownership of that home changes;

and in the home to which he moves or, as the case may be, following the change of ownership, the accommodation and meals (if any) are provided for him by a close relative of his [<sup>F35</sup>or of any member] of his family, [<sup>F35</sup>or are provided] otherwise than on a commercial basis;

- (b) a preserved right acquired under paragraph (1ZB) or (1ZC) which ceased to apply to a person in accordance with sub-paragraph (a) shall, notwithstanding that paragraph, revive and again apply in his case where—
  - (i) he moves from the home mentioned in sub-paragraph (a)(i) to another residential care home or nursing home, or
  - (ii) the ownership of that home changes, or in the case of a home mentioned in sub-paragraph (a)(ii), changes again,

and in the home to which he moves or, as the case may be, following the change or further change of ownership, the accommodation and meals (if any) are provided for him otherwise than by a close relative of his [<sup>F36</sup>or of any member] of his family, and are provided on a commercial basis.

(1ZH) For the purposes of paragraphs (1ZB) and (1ZF) a person is a permanent resident in a residential care home or nursing home where the home is his principal place of abode, and a temporary resident where it is not.

(1ZJ) For the avoidance of doubt, the expression “residential care home” in paragraphs (1ZB) and (1ZE) has the meaning it bore on 31st March 1993.]

[<sup>F37</sup>(1ZK) Where a person—

- (a) formerly had a preserved right by virtue of paragraph (1ZB); and
- (b) on 1st April 1993 was living in a home which was exempt from registration under Part I of the Registered Homes Act 1984 pursuant to section 1(4)(a) of that Act (exemption from registration in respect of certain homes) because one or more of the residents were treated as relatives pursuant to section 19(4) of that Act; and
- (c) is living in that home on 4th October 1993; and
- (d) between 1st April 1993 and 4th October 1993 he has not been absent from that home, or has been absent from it for a period not exceeding 13 weeks;

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then subject to paragraph (1ZL) that person shall be treated for the purposes of this regulation as though he had a preserved right on and after 4th October 1993.

(1ZL) Paragraph (1ZK) shall cease to apply to a person who is treated as though he had a preserved right where he is absent from a residential care home or nursing home and that absence exceeds a period of—

- (a) except in a case to which sub-paragraph (b) applies, 13 weeks; or
- (b) 52 weeks where throughout the period of absence the person was a patient.]

[<sup>F38</sup>(1ZM) Where a person is treated in accordance with paragraph (1ZK) as having a preserved right, paragraph (1ZG) shall apply to that person as if he had acquired a preserved right under paragraph (1ZB).]

[<sup>F39</sup>(1ZN) Where a person—

- (a) on 31st March 1993 was a member of a couple and his partner acquired a preserved right under paragraph (1ZB)(a)(i);
- (b) before 3rd October 1994 ceased to be a member of a couple; and
- (c) between 31st March 1993 and 3rd October 1994 has been living in a residential care home or a nursing home,

he shall be treated for the purposes of this regulation as having a preserved right from 3rd October 1994.

(1ZO) Subject to paragraph (1ZG), where a person would have been living in a residential care home or nursing home on 31st March 1993 but for an absence which, including that day, does not exceed—

- (a) where the person was before his absence a temporary resident in the home, 4 weeks; or
- (b) where the person was before his absence a permanent resident in the home, 13 weeks; or
- (c) where throughout the period of absence the person was a patient, 52 weeks,

and the provisions of paragraph (1ZN) would have applied to him but for that absence, he shall be treated as having a preserved right from 3rd October 1994.

(1ZP) Where a person is treated as having a preserved right in accordance with paragraphs (1ZK), (1ZN) or (1ZO) above, paragraph (1ZG) shall apply to that person as if he had acquired a preserved right under paragraph (1ZB).

(1ZQ) Where a person to whom paragraph (1ZO) refers is absent from a residential care home or nursing home in the period from 31st March 1993 to 3rd October 1994 for a period which exceeds a period to which paragraph (1ZO) refers and which is appropriate in his case, he shall cease to be treated as having a preserved right.]

[<sup>F40</sup>(1ZR) A person who acquired a preserved right under paragraph (1ZB) or (1ZC) shall cease to have that right if —

- (a) he resides in a home which falls within sub-paragraph (c) of the definition of “residential care home” in paragraph (3) (homes run by the Abbeyfield Society) and which is not registered or deemed to be registered under any of the enactments referred to in sub-paragraph (a) or (e) of that definition;
- (b) he requires personal care, including assistance with bodily functions, and that residential care home does not provide such care; and
- (c) he, or a person on his behalf, contracts with another person or body to provide that care,

but that preserved right shall revive if any of the conditions specified in sub-paragraphs (a) to (c) above ceases to apply and that person would, but for this provision, have retained that right.]



[<sup>F25</sup>(1A) For the purposes of paragraph (1)(b) [<sup>F41</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>F42</sup> (transitional provisions), in accordance with paragraph 1 of Schedule 1A to the Supplementary Benefit Requirements Regulations 1983 <sup>F43</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>F44</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 the Nursing Homes Registration (Scotland) Act 1938 <sup>F45</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>F46</sup> (private hospitals), and which are registered under that Act;

“residential care home” means an establishment—

- (a) [<sup>F47</sup>which is required to be registered under Part I of the Registered Homes Act 1984 and is so registered]<sup>F48</sup>, or is deemed to be registered under section 2(3) of the Registered Homes (Amendment) Act 1991 (which refers to the registration of small homes where the application for registration has not been determined)]; or]

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- (b) <sup>F49</sup> ...
- (c) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or
- (d) [<sup>F50</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>F51</sup> or is an establishment provided by [<sup>F52</sup>a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988]<sup>F53</sup> which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act [<sup>F54</sup>1968; or]
- (f) [<sup>F55</sup>which is exempt from registration under Part I of the Registered Homes Act 1984 pursuant to section 1(4)(a) of that Act (exemption from registration in respect of certain homes) because one or more of the residents are treated as relatives pursuant to section 19(4) of that Act;]

[<sup>F56</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>F57</sup>old] age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder.]

“temporary absence” means—

- (a) [<sup>F58</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>F59</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

- F25** 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)**
- F26** Words in reg. 19(1) substituted (1.4.1993) by [The Social Security Benefits \(Amendments Consequential Upon the Introduction of Community Care\) Regulations 1992 \(S.I. 1992/3147\)](#), regs. 1(1), **3(1)(a)**
- F27** Words in reg. 19(1) substituted (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), **11**
- F28** Reg. 19(1ZA) inserted (20.5.1991) by [The Income Support \(General\) Amendment \(No. 3\) Regulations 1991 \(S.I. 1991/1033\)](#), regs. 1(1), **2**

- F29** Reg. 19(1ZB)-(1ZJ) inserted (1.4.1993) by The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations 1992 (S.I. 1992/3147), regs. 1(1), **3(1)(b)**
- F30** Reg. 19(1ZB)(a)(iii) added (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) (No.5) Regulations 1994 (S.I. 1994/2139), regs. 1(1)(a), **24(2)**
- F31** Words in reg. 19(1ZC)(b) 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), **9(2)**
- F32** Word in reg. 19(1ZD) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1994 (S.I. 1994/527), regs. 1(1)(b), **2(2)**
- F33** Words in reg. 19(1ZE) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) (No.5) Regulations 1994 (S.I. 1994/2139), regs. 1(1)(a), **24(3)**
- F34** Reg. 19(1ZEA) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) (No.5) Regulations 1994 (S.I. 1994/2139), regs. 1(1)(a), **24(4)**
- F35** Words in reg. 19(1ZG)(a) 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), **9(3)(a)(i)(ii)**
- F36** Words in reg. 19(1ZG)(b) 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), **9(3)(b)**
- F37** Reg. 19(1ZK)(1ZL) inserted (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), **9(4)**
- F38** Reg. 19(1ZM) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1994 (S.I. 1994/527), regs. 1(1)(b), **2(3)**
- F39** Reg. 19(1ZN)-(1ZQ) added (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) (No.5) Regulations 1994 (S.I. 1994/2139), regs. 1(1)(a), **24(5)**
- F40** Reg. 19(1ZR) inserted (8.4.1996) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/462), regs. 1(2), **2**
- F41** 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)**
- F42** S.I. 1987/1325.
- F43** S.I. 1983/1399; the relevant amending instruments are S.I. 1985/1835 and 1986/1292.
- F44** 1984 c. 23.
- F45** 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).
- F46** 1984 c. 36.
- F47** 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)**
- F48** Words in reg. 19(3) inserted (1.4.1993) by The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations 1992 (S.I. 1992/3147), reg. 1(1), **Sch. 1 para. 2(a)**

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- F49** Words in reg. 19(3) 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. 2(b)**
- F50** 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)**
- F51** 1968 c. 49, **section 61** was amended by the [Criminal Proceedings \(Scotland Act\) 1975 \(c. 21\)](#), **section 289C** and G and Schedule 7C.
- F52** Words in reg. 19(3) substituted (1.4.1993) by [The Social Security Benefits \(Amendments Consequential Upon the Introduction of Community Care\) Regulations 1992 \(S.I. 1992/3147\)](#), reg. 1(1), **Sch. 1 para. 2(c)**
- F53** 1964 c. 56.
- F54** Words in reg. 19(3)(e) substituted for word (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), **9(5)(a)**
- F55** Reg. 19(3)(f) inserted (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), **9(5)(b)**
- F56** 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)**
- F57** 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**
- F58** 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)**
- F59** 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](#)

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

**F60**20. ....

**Textual Amendments**

- F60** 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>F61</sup>[<sup>F62</sup>regulation 21ZB] (treatment of refugees) and][<sup>F63</sup>regulation 22A] (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, [<sup>F64</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000.

[<sup>F65</sup>(1A) Except where the amount prescribed in Schedule 7 in respect of a person to whom paragraph (1) applies includes an amount applicable under regulation 17(1)(d) or 18(1)(e), a person to whom paragraph (1) applies shall be treated as not being severely disabled.]

(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) [<sup>F66</sup>Subject to paragraph (3F),] in Schedule 7—

[<sup>F67</sup>“partner of a person subject to immigration control” means a person—

- (i) who is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act; or
- (ii) to whom section 115 of that Act does not apply by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000; and
- (iii) who is a member of a couple and his partner is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to her for the purposes of exclusion from entitlement to income support;]

<sup>F68</sup> ...

[<sup>F69</sup>“person from abroad” <sup>F70</sup>... means a claimant who is not habitually resident in the United Kingdom, [<sup>F71</sup>the Channel Islands, the Isle of Man or the Republic of Ireland], but for this purpose, no claimant shall be treated as not habitually resident in the United Kingdom who is—

- (a) a worker for the purposes of Council Regulation (EEC) No. 1612/68 or (EEC) No. 1251/70 or a person with a right to reside in the United Kingdom pursuant to Council Directive No.68/360/EEC or No.73/148/EEC; or
- (b) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967; or
- (c) a person who has been granted exceptional leave [<sup>F72</sup>to enter the United Kingdom by an immigration officer within the meaning of the Immigration Act 1971, or] to remain in the United Kingdom by the Secretary of State[<sup>F73</sup>; or
- (d) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;]

“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>F74</sup>.

[<sup>F75</sup>“prisoner” means a person who—

- (a) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (b) is on temporary release in accordance with the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989,

other than a person [<sup>F76</sup>who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Scotland) Act 1984 or the Criminal Procedure (Scotland) Act 1995,]

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[<sup>F77</sup>“residential accommodation” means, subject to the following provisions of this regulation, accommodation provided by a local authority in a home owned or managed by that or another local authority—

- (a) under sections 21 to 24 <sup>F78</sup>...of the National Assistance Act 1948 (provision of accommodation); or
- (b) in Scotland, under section 13B or 59 of the Social Work (Scotland) Act 1968 (provision of residential and other establishments)<sup>F79</sup> ...; or
- (c) under section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities), where the accommodation is provided for a person whose stay in that accommodation has become other than temporary.]

[<sup>F80</sup>(3A) Where on or after 12th August 1991 a person is in, or only temporarily absent from, residential accommodation within the meaning of paragraph (3) and that accommodation subsequently becomes a residential care home within the meaning of regulation 19 (applicable amounts for persons in residential care and nursing homes) that person shall continue to be treated as being in residential accommodation within the meaning of paragraph (3) if, and for so long as, he remains in the same accommodation <sup>F81</sup>....]

[<sup>F82</sup>(3B) In a case where on 31st March 1993 a person was in or was temporarily absent from accommodation provided under section 26 of the National Assistance Act 1948, the definition of “residential accommodation” in paragraph (3) shall have effect in relation to that case as if for the words “provided by a local authority in a home owned or managed by that or another authority” there were substituted the words “provided in accordance with arrangements made by a local authority”, and for the words in sub-paragraph (a) “under sections 21 to 24<sup>F83</sup>...” there were substituted the words “under section 26”.

(3C) In a case where on 31st March 1993 a person was in or was temporarily absent from accommodation provided by a local authority under section 21 of the National Assistance Act 1948, the definition of “residential accommodation” in paragraph (3) shall have effect in relation to that case as if, after the words “by that or another [<sup>F84</sup>local] authority” there were inserted the words “or provided in accordance with arrangements made by a local authority”.]

[<sup>F85</sup>(3D) In Scotland, in a case where on the 31st March 1993 a person was in or was temporarily absent from accommodation provided under section 13B in a private or voluntary sector home, section 59(2)(c) of the Social Work (Scotland) Act 1968 or section 7 of the Mental Health (Scotland) Act 1984 in a voluntary or private sector home, the definition of “residential accommodation” in paragraph (3) shall have effect in that case as if—

- (a) for the words “provided by a local authority in a home owned or managed by that or another local authority” there were substituted the words “provided in accordance with arrangements made by a local authority”; and
- (b) for the words in sub-paragraph (b) “under section 13B or 59” there were substituted the words “under section 13B or 59(2)(c)”;

and for the purpose of this paragraph the definition of “residential accommodation” above shall continue to have effect as though the words “other than in premises registered under section 61 of that Act (registration) and which are used for the rehabilitation of alcoholics or drug addicts,” were retained at the end of sub-paragraph (b) of the definition.

(3E) In Scotland, in a case where on 31st March 1993 a person was in or was temporarily absent from accommodation the provision of which was secured by a local authority under section 13B in a home owned or managed by that or another local authority, section 59(2)(a) or (b) of the Social Work (Scotland) Act 1968, or section 7 of the Mental Health (Scotland) Act 1984 in a home owned or managed by that or another local authority, the definition of “residential accommodation” in paragraph (3) shall have effect in relation to that case as if, after the words “by that or another local

authority” there were inserted the words “or provided in accordance with arrangements made by a local authority”.]

[<sup>F86</sup>(3F) In paragraph (3) “person from abroad” does not include any person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption.]

(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

<sup>F87</sup>(b) .....

[<sup>F88</sup>(c) for whom board is not provided.]

[<sup>F89</sup>(4A) [<sup>F90</sup>In paragraph (4), sub-paragraph (c)] in the definition of “residential accommodation” shall apply only to accommodation—

- (a) where no cooked or prepared food is made available to the claimant 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 of those charges, or
- (b) where such food is actually made available for his consumption on payment of a further charge or charges.]

[<sup>F91</sup>(4B) In the case of a person who on 31st March 1993 was either in or only temporarily absent from, residential accommodation within the meaning of regulation 21(3) as then in force, paragraph (4) shall apply as if sub-paragraph (c) was omitted.]

(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

- F61** Words in [reg. 21\(1\)](#) inserted (15.10.1996) by [The Income Support and Social Security \(Claims and Payments\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2431\)](#), [regs. 1\(1\), 2](#)
- F62** Words in [reg. 21\(1\)](#) substituted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), [regs. 1\(1\), 3\(4\)\(a\)](#) (with [reg. 12\(2\)\(a\)](#))
- F63** Words in [reg. 21\(1\)](#) substituted (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\(1\), 12](#)
- F64** Words in [reg. 21\(1\)](#) substituted (with effect in accordance with [reg. 1\(3\)](#) of the amending S.I.) by [The Income-related Benefits Schemes \(Miscellaneous Amendments\) Regulations 1994 \(S.I. 1994/527\)](#), [regs. 1\(1\)\(b\), 3](#)
- F65** [Reg. 21\(1A\)](#) inserted (20.5.1991) by [The Income Support \(General\) Amendment \(No. 3\) Regulations 1991 \(S.I. 1991/1033\)](#), [regs. 1\(1\), 3](#)
- F66** Words in [reg. 21\(3\)](#) inserted (28.8.1996) by [The Income-related Benefits \(Montserrat\) Regulations 1996 \(S.I. 1996/2006\)](#), [regs. 1, 4\(2\)](#)
- F67** Words in [reg. 21\(3\)](#) inserted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), [regs. 1\(1\), 3\(4\)\(c\)](#)
- F68** Words in [reg. 21\(3\)](#) omitted (3.4.2000) by virtue of [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), [regs. 1\(1\), 3\(4\)\(b\)](#)

*Status: Point in time view as at 09/04/2001.*

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

- F69** Words in reg. 21(3) inserted (1.8.1994) by The Income-related Benefits Schemes (Miscellaneous Amendments) (No. 3) Regulations 1994 (S.I. 1994/1807), regs. 1, **4(1)** (with reg. 4(2))
- F70** Word in reg. 21(3) omitted (3.4.2000) by virtue of The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(1), **3(4)(d)**
- F71** Words in reg. 21(3) 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(6)(b)** (with reg. 13)
- F72** Words in reg. 21(3) inserted (coming into force in accordance with reg. 1(2)(3) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1(2), **18(3)(4)(c)**
- F73** Words in reg. 21(3) added (2.5.2000) by The Income-related Benefits and Jobseeker's Allowance (Amendment) Regulations 2000 (S.I. 2000/979), regs. 1, **2**
- F74** S.I. 1975/555, the relevant amending instruments are 1977/1693 and 1987/1683.
- F75** Words in reg. 21(3) substituted (10.4.1995) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995 (S.I. 1995/516), regs. 1(1)(a), **21(a)(i)** (with reg. 1(2))
- F76** Words in reg. 21(3) substituted (coming into force in accordance with reg. 1(2)(3) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1(2), **8(1)(2)(c)(i)**
- F77** Words in reg. 21(3) substituted (1.4.1993) by The Social Security Benefits (Amendments) Consequential Upon the Introduction of Community Care Regulations 1992 (S.I. 1992/3147), reg. 1(1), **Sch. 1 para. 3(a)**
- F78** Words in reg. 21(3) omitted (10.4.1995) by virtue of The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995 (S.I. 1995/516), regs. 1(1)(a), **21(a)(ii)** (with reg. 1(2))
- F79** Words in reg. 21(3) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Income-related Benefits Schemes (Miscellaneous Amendments) (No.5) Regulations 1994 (S.I. 1994/2139), regs. 1(1)(a), **25(a)**
- F80** Reg. 21(3A) inserted (12.8.1991) by The Income Support (General) Amendment (No. 5) Regulations 1991 (S.I. 1991/1656), regs. 1(1), **2(b)**
- F81** Words in reg. 21(3A) omitted (8.11.1996) by virtue of The Income Support (General) Amendment (No. 3) Regulations 1996 (S.I. 1996/2614), regs. 1, **2**
- F82** Reg. 21(3B)(3C) inserted (1.4.1993) by The Social Security Benefits (Miscellaneous Amendments) Regulations 1993 (S.I. 1993/518), regs. 1, **5(3)(a)**
- F83** Words in reg. 21(3B) omitted (10.4.1995) by virtue of The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995 (S.I. 1995/516), regs. 1(1)(a), **21(b)** (with reg. 1(2))
- F84** Word in reg. 21(3C) inserted (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), **10**
- F85** Reg. 21(3D)(3E) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) (No.5) Regulations 1994 (S.I. 1994/2139), regs. 1(1)(a), **25(b)**
- F86** Reg. 21(3F) inserted (28.8.1996) by The Income-related Benefits (Montserrat) Regulations 1996 (S.I. 1996/2006), regs. 1, **4(3)**
- F87** Reg. 21(4)(b) and word omitted (10.4.1995) by virtue of The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995 (S.I. 1995/516), regs. 1(1)(a), **21(c)** (with reg. 1(2))
- F88** Words in Reg 21(4) substituted (1.4.1993) by The Social Security Benefits (Amendments) Consequential Upon the Introduction of Community Care Regulations 1992 (S.I. 1990/3147), reg. 1(1), **Sch. 1 para. 3(b)**
- F89** Reg. 21(4A) added (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits Schemes (Miscellaneous Amendments) (No. 3) Regulations 1992 (S.I. 1992/2155), regs. 1(1), **15(3)**



- F90** Words in reg. 21(4A) substituted (1.4.1993) by [The Social Security Benefits \(Amendments Consequential Upon the Introduction of Community Care\) Regulations 1992 \(S.I. 1992/3147\)](#), reg. 1(1), **Sch. 1 para. 3(c)**
- F91** Reg. 21(4B) inserted (1.4.1993) by [The Social Security Benefits \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/518\)](#), regs. 1, **5(3)(b)**

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

- C3** [Reg. 21\(1\)](#) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), **16(2)**

**Commencement Information**

- I5** Reg. 21 in force at 11.4.1988, see [reg. 1](#)

**[<sup>F92</sup>Treatment of refugees**

**[<sup>F93</sup>21ZB.—**(1) This paragraph applies to a person who has submitted a claim for asylum on or after 3rd April 2000 and who is notified that he has been recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967.

(2) Subject to paragraph (3), a person to whom paragraph (1) applies, who claims income support within 28 days of receiving the notification referred to in paragraph (1), shall have his claim for income support determined as if he had been recorded as a refugee on the date when he submitted his claim for asylum.

(3) The amount of support provided under section 95 or 98 of the Immigration and Asylum Act, including support provided by virtue of regulations made under Schedule 9 to that Act, by the Secretary of State in respect of essential living needs of the claimant and his dependants (if any) as specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act shall be deducted from any award of income support due to the claimant by virtue of paragraph (2).]]

**Textual Amendments**

- F92** [Reg. 21ZA](#) inserted (15.10.1996) by [The Income Support and Social Security \(Claims and Payments\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2431\)](#), regs. 1(1), **3**
- F93** [Reg. 21ZB](#) substituted for [reg. 21ZA \(3.4.2000\)](#) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(1), **3(5)** (with [reg. 12\(2\)\(a\)](#))

**Reductions in applicable amounts in certain cases of failure to attend courses**

**<sup>F94</sup>21A.** . . . . .

**Textual Amendments**

- F94** [Reg. 21A](#) revoked (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 \(S.I. 1996/206\)](#), reg. 1(1), **Sch. 3**

*Status: Point in time view as at 09/04/2001.*

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

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

<sup>F95</sup>22. ....

### Textual Amendments

**F95** Reg. 22 revoked (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 \(S.I. 1996/206\)](#), reg. 1(1), [Sch. 3](#)

### Commencement Information

**I6** Reg. 22 in force at 11.4.1988, see [reg. 1](#)

## <sup>F96</sup>Reduction in applicable amount where the claimant is appealing against a decision <sup>F97</sup>which embodies a determination] that he is not incapable of work

**22A.**—(1) Subject to paragraph (3), where a claimant falls within paragraph 25 of Schedule 1B (persons appealing against a decision [<sup>F98</sup>which embodies a determination] that they are not incapable of work under the [<sup>F99</sup>personal capability assessment]), and none of the other paragraphs of that Schedule applies to him, his applicable amount shall be reduced by a sum equivalent to 20 per cent. of the following amount—

- (a) in the case of a person to whom regulation 17 or 18 or paragraphs 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 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 or a member of a couple or a 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—
    - (aa) does not qualify for income support under regulation 4ZA, or who would not so qualify if he were to make a claim; and
    - (bb) does not satisfy the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); and
    - (cc) is not the subject of a direction under section 16 of the Jobseekers Act 1995 (persons under 18: severe hardship),
 the amount specified in 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 (other than a member of a couple or a 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 paragraph 1(1)(e) of that Schedule;
- (b) in the case of a person to whom regulation 19 applies (applicable amounts for people in residential care and nursing homes), the amount allowed for personal expenses for him specified in paragraph 13 of Schedule 4.

(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) Paragraph (1) shall not apply to a claimant who is appealing against a decision [<sup>F100</sup>which embodies a determination] that he is not incapable of work under the [<sup>F101</sup>personal capability assessment] where that [<sup>F102</sup>determination] was [<sup>F103</sup>the first determination made in accordance with, the all work test before 3rd April 2000 or, after that date, the personal capability assessment, in relation to the claimant], and the claimant was, immediately prior to 13th April 1995, either—

- (a) in receipt of invalidity pension under Part II of the Contributions and Benefits Act as then in force, or severe disablement allowance; or
- (b) incapable of work in accordance with paragraph 5 of Schedule 1 as in force on 12th April 1995 and had been so for a continuous period of 28 weeks.]

#### Textual Amendments

- F96** Reg. 22A 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), **13**
- F97** Words in reg. 22A heading inserted (6.9.1999) by The Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2422), art. 3(1), **Sch. 6 para. 1(a)**
- F98** Words in reg. 22A(1) inserted (6.9.1999) by The Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2422), art. 3(1), **Sch. 6 para. 1(a)**
- F99** Words in reg. 22A(1) substituted (3.4.2000) by The Social Security (Incapacity for Work) Miscellaneous Amendments Regulations 1999 (S.I. 1999/3109), regs. 1(1), **6**
- F100** Words in reg. 22A(3) inserted (6.9.1999) by The Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2422), art. 3(1), **Sch. 6 para. 1(a)**
- F101** Words in reg. 22A(3) substituted (3.4.2000) by The Social Security (Incapacity for Work) Miscellaneous Amendments Regulations 1999 (S.I. 1999/3109), regs. 1(1), **6**
- F102** Word in reg. 22A(3) substituted (6.9.1999) by The Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2422), art. 3(1), **Sch. 6 para. 1(b)**
- F103** Words in reg. 22A(3) substituted (3.4.2000) by The Social Security (Incapacity) Miscellaneous Amendments Regulations 2000 (S.I. 2000/590), regs. 1(b), **5**

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

- C4** Reg. 22A(1) excluded (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), **27(3)**
- C5** Reg. 22A(1) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 (S.I. 2001/207), arts. 1(2)(g), 16(9), **Sch. 6**

**Status:**

Point in time view as at 09/04/2001.

**Changes to legislation:**

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