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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 [<sup>F9</sup>(c)] 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>F10</sup>the permitted period determined in accordance with regulation 3A (permitted period)].]

[<sup>F11</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>F12</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>F13</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** Word in [reg. 17\(4\)\(a\)\(iii\)](#) substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), [reg. 1, Sch. Pt. 1 para. 3](#)
- F10** 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\(a\)](#)
- F11** [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\(b\)](#)

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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, 2, [Sch.](#)

**F13** 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 (7.4.2003 for specified purposes and with effect in accordance with art. 1(2)(g)) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(g), [17\(2\)\(a\)](#)

**Commencement Information**

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

**Polygamous marriages**

**18.**—<sup>F14</sup>(1) <sup>F15</sup>Subject to paragraph (2) and<sup>F16</sup>regulations 21<sup>F17</sup>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>F18</sup>sub-paragraphs (3) (d)<sup>F19</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>F20</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000;
- <sup>F21</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>F22</sup>(g) any amount determined in accordance with regulation 17(1)(f) (applicable amounts);]
- <sup>F23</sup>(h) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A]<sup>F24</sup>or, as the case may be, 3B].
- <sup>F25</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>F26</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

- F14** 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)**
- F15** 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)**
- F16** Words in reg. 18(1) substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. I para. 4**
- F17** 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)**
- F18** 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)**
- F19** 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**
- F20** 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**
- F21** 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)**
- F22** 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**
- F23** 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)
- F24** 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**
- F25** 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)**
- F26** 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 (7.4.2003 for specified purposes and with effect in accordance with art. 1(2)(g)) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(g), **17(2)(a)**

### Commencement Information

- I2** Reg. 18 in force at 11.4.1988, see [reg. 1](#)

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

<sup>F27</sup>**19.** . . . . .

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#### Textual Amendments

- F27** Reg. 19 omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. I para. 5**

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

**F28** 20. . . . .

#### Textual Amendments

- F28** 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

- I3** Reg. 20 in force at 11.4.1988, see [reg. 1](#)

### Special cases

**21.—(1)** Subject to [<sup>F29</sup>paragraph (1B),][<sup>F30</sup>[<sup>F31</sup>regulation 21ZB] (treatment of refugees) and][<sup>F32</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>F33</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000.

[<sup>F34</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.]

[<sup>F35</sup>(1B) An amount shall only be applicable under paragraph 10A, 10B, 10C or 13 of Schedule 7 where an amount was applicable to a person under any of those paragraphs on 7th April 2002 and shall only continue to be applicable to that person after that date for so long as the relevant conditions in column (1) of that Schedule continue to apply to him.]

(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>F36</sup>Subject to paragraph (3F),] in Schedule 7—

[<sup>F37</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;]

F38  
...

[<sup>F39</sup>“person from abroad”<sup>F40</sup> ... means a claimant who is not habitually resident in the United Kingdom, [<sup>F41</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>F42</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>F43</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>F44</sup>.

[<sup>F45</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>F46</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,]]

[<sup>F47</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>F48</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>F49</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>F50</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 <sup>F51</sup>... 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>F52</sup>....]

[<sup>F53</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

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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>F54</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>F55</sup>local] authority” there were inserted the words “or provided in accordance with arrangements made by a local authority”.]

[<sup>F56</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>F57</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>F58</sup>(b) .....

[<sup>F59</sup>(c) for whom board is not provided.]

[<sup>F60</sup>(4A) [<sup>F61</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>F62</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

- F29** Words in reg. 21(1) inserted (8.4.2002) by The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), reg. 1, **Sch. Pt. I para. 6(a)**
- F30** 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**
- F31** 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))
- F32** 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**
- F33** 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**
- F34** 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**
- F35** Reg. 21(1B) inserted (8.4.2002) by The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), reg. 1, **Sch. Pt. I para. 6(b)**
- F36** 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)**
- F37** 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)**
- F38** 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)**
- F39** 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))
- F40** 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)**
- F41** 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)
- F42** 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)**
- F43** 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**
- F44** S.I. 1975/555, the relevant amending instruments are 1977/1693 and 1987/1683.
- F45** 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))
- F46** 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)**

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*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)*

- F47** 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)**
- F48** 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))
- F49** 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)**
- F50** 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)**
- F51** Words in reg. 21(3A) omitted (8.4.2002) by virtue of The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), **Sch. Pt. 1 para. 6(c)**
- F52** 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**
- F53** 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)**
- F54** 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))
- F55** 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**
- F56** 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)**
- F57** Reg. 21(3F) inserted (28.8.1996) by The Income-related Benefits (Montserrat) Regulations 1996 (S.I. 1996/2006), regs. 1, **4(3)**
- F58** 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))
- F59** 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)**
- F60** 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)**
- F61** 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)**
- F62** 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 (7.4.2003 for specified purposes and with effect in accordance with art. 1(2)(g)) by The Social Security Benefits Up-rating Order 2003 (S.I. 2003/526), arts. 1(2)(g), **17(2)(a)**

#### Commencement Information

- I4** Reg. 21 in force at 11.4.1988, see reg. 1

### [<sup>F63</sup>Treatment of refugees

[<sup>F64</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**

- F63** 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**
- F64** 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>F65</sup>**21A.** . . . . .

**Textual Amendments**

- F65** 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**

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

<sup>F66</sup>**22.** . . . . .

**Textual Amendments**

- F66** 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**

- I5** Reg. 22 in force at 11.4.1988, see [reg. 1](#)

<sup>F67</sup>**Reduction in applicable amount where the claimant is appealing against a decision**  
<sup>F68</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>F69</sup>which embodies a determination]) that they are not incapable

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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)

of work under the [<sup>F70</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;

<sup>F71</sup>(b) . . . . .

(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>F72</sup>which embodies a determination] that he is not incapable of work under the [<sup>F73</sup>personal capability assessment] where that [<sup>F74</sup>determination] was [<sup>F75</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**

- F67** 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**
- F68** 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)**
- F69** 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)**

- F70** 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**
- F71** Reg. 22A(1)(b) omitted (8.4.2002) by virtue of The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), reg. 1, **Sch. Pt. I para. 7**
- F72** 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)**
- F73** 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**
- F74** 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)**
- F75** 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) sum confirmed (7.4.2003 for specified purposes and with effect in accordance with art. 1(2)(g)) by The Social Security Benefits Up-rating Order 2003 (S.I. 2003/526), arts. 1(2)(g), 17(8), **Sch. 5**
- C5** 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)**

**Status:**

Point in time view as at 08/08/2003.

**Changes to legislation:**

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