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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]<sup>F2</sup>... (applicable amounts in other cases and reductions in applicable amounts <sup>F2</sup>...), 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) [<sup>F3</sup>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>F4</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000;]
- <sup>F5</sup>(bb) .....
- (c) [<sup>F3</sup>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>F6</sup>(f) any amounts determined in accordance with [<sup>F7</sup>paragraphs (2) to (7)].]

<sup>F8</sup>(g) .....

[<sup>F9</sup>(2) Where —

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

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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>F9</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>F9</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
  - [<sup>F10</sup>(iii) in a care home, an Abbeyfield Home or an independent hospital; 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>F9</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>F9</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>F11</sup>the permitted period determined in accordance with regulation 3A (permitted period)].]

[<sup>F12</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>F13</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>F14</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>F9</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\(1\)](#) omitted (25.1.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2009](#) (S.I. 2009/3228), [regs. 1\(2\), 3\(2\)\(a\)](#)
- F3** [Reg. 17\(1\)\(b\)\(c\)](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(2\)-\(5\)](#) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003](#) (S.I. 2003/455), [Sch. 1 para. 2\(a\)](#)
- F4** 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](#)
- F5** [Reg. 17\(1\)\(bb\)](#) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003](#) (S.I. 2003/1121), [reg. 1, Sch. 1 para. 2](#)
- F6** [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](#)
- F7** 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](#))
- F8** [Reg. 17\(1\)\(g\)](#) revoked (3.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006](#) (S.I. 2006/588), [regs. 1\(5\), 2\(4\)\(a\)](#)
- F9** [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](#)
- F10** [Reg. 17\(4\)\(a\)\(iii\)](#) substituted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005](#) (S.I. 2005/2687), [reg. 1, Sch. 1 para. 4](#)
- F11** 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\(a\)](#)
- F12** [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\(b\)](#)
- F13** 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.](#)

*Status: Point in time view as at 25/01/2010.*

*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)*

**F14** 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](#) applied (with modifications) (S.) (6.10.2003) by [The National Health Service \(Travelling Expenses and Remission of Charges\) \(Scotland\) \(No. 2\) Regulations 2003 \(S.S.I. 2003/460\)](#), reg. 1, **sch. Pt. II** Table B (with [reg. 13](#))

**C2** [Reg. 17\(1\)\(b\)](#): sum confirmed (with effect in accordance with art. 1(2)(h) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), **art. 16(2)(a)**

**Commencement Information**

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

**Polygamous marriages**

**18.**—<sup>F15</sup>(1) <sup>F16</sup>Subject to paragraph (2) and<sup>F17</sup>regulations 21<sup>F18</sup>to 22A<sup>F19</sup>... (applicable amounts in other cases and reductions in applicable amounts <sup>F19</sup>...), 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>F20</sup>sub-paragraphs (3) (d)<sup>F21</sup>and (1)(e) of paragraph 1 of Schedule 2 in respect of each of his other partners;
- (c) <sup>F22</sup>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>F23</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000;]

<sup>F24</sup>(cc) .....

- (d) <sup>F25</sup>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>F26</sup>(g) any amount determined in accordance with regulation 17(1)(f) (applicable amounts);]

<sup>F27</sup>(h) .....

<sup>F28</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>F29</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

- F15** 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)**
- F16** 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)**
- F17** 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**
- F18** 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)**
- F19** Words in reg. 18(1) omitted (25.1.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2009 \(S.I. 2009/3228\)](#), regs. 1(2), **3(2)(b)**
- F20** 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)**
- F21** 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**
- F22** Reg. 18(1)(c) omitted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 1 para. 3(a)**
- F23** 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**
- F24** Reg. 18(1)(cc) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), reg. 1, **Sch. 1 para. 3**
- F25** Reg. 18(1)(d) omitted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 1 para. 3(a)**
- F26** 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**
- F27** Reg. 18(1)(h) revoked (3.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(5), **2(4)(b)**
- F28** 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)**
- F29** 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)

- C3** Reg. 18 applied (with modifications) (S.) (6.10.2003) by [The National Health Service \(Travelling Expenses and Remission of Charges\) \(Scotland\) \(No. 2\) Regulations 2003 \(S.S.I. 2003/460\)](#), reg. 1, **sch. Pt. II Table B** (with reg. 13)
- C4** Reg. 18(1)(c): sum confirmed (with effect in accordance with art. 1(2)(h) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), **art. 16(2)(a)**

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**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>F30</sup>**19.** . . . . .

**Textual Amendments**

**F30** 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**

<sup>F31</sup>**20.** . . . . .

**Textual Amendments**

**F31** 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>F32</sup>paragraph (1B),]<sup>F33</sup>[<sup>F34</sup>regulation 21ZB] (treatment of refugees) and]<sup>F35</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 [<sup>F36</sup>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>F37</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000].

<sup>F38</sup>(1A) . . . . .

<sup>F39</sup>(1B) . . . . .

<sup>F40</sup>(2) . . . . .

(3) [<sup>F41</sup>In Schedule 7] —

[<sup>F42cc</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 [<sup>F43</sup>the member's] partner is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act

applies to [<sup>F44</sup>the partner] for the purposes of exclusion from entitlement to income support;]

<sup>F45</sup> ...

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of [<sup>F46</sup>regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005].

[<sup>F47</sup>“person from abroad” has the meaning given in regulation 21AA;]

[<sup>F48</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>F49</sup>who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the [<sup>F50</sup>Mental Health (Care and Treatment) (Scotland) Act 2003] or the Criminal Procedure (Scotland) Act 1995,]]

<sup>F51</sup> ...

- <sup>F52</sup>(3A) .....
- <sup>F52</sup>(3B) .....
- <sup>F52</sup>(3C) .....
- <sup>F52</sup>(3D) .....
- <sup>F52</sup>(3E) .....
- <sup>F53</sup>(3F) .....
- <sup>F53</sup>(3G) .....
- <sup>F54</sup>(4) .....
- <sup>F54</sup>(4A) .....
- <sup>F54</sup>(4B) .....

(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**

- F32** 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. 1 para. 6(a)**
- F33** 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](#)
- F34** 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\(2\)\(a\)](#))
- F35** 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](#)
- F36** Words in [reg. 21\(1\)](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(2\)-\(5\)](#) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 1 para. 4(a)**

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- F37** 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**
- F38** Reg. 21(1A) omitted (6.4.2009) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/583), regs. 1(2), **2(5)**
- F39** Reg. 21(1B) omitted (6.10.2003) by virtue of The Social Security (Third Party Deductions and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2325), regs. 1, **3(a)**
- F40** Reg. 21(2) omitted (for specified purposes and with effect in accordance with reg. 1(c) of the amending S.I.) by virtue of The Social Security (Hospital In-Patients) Regulations 2005 (S.I. 2005/3360), **reg. 4(2)(a)**
- F41** Words in reg. 21(3) substituted (30.4.2006) by The Social Security (Persons from Abroad) Amendment Regulations 2006 (S.I. 2006/1026), regs. 1, **6(2)(a)(i)** (with reg. 11(2))
- F42** 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)**
- F43** Words in reg. 21(3) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 13(3)(a)** (with art. 3)
- F44** Words in reg. 21(3) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 13(3)(b)** (with art. 3)
- F45** 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)**
- F46** Words in reg. 21(3) substituted (for specified purposes and with effect in accordance with reg. 1(c) of the amending S.I.) by The Social Security (Hospital In-Patients) Regulations 2005 (S.I. 2005/3360), **reg. 4(2)(b)**
- F47** Words in reg. 21(3) substituted (30.4.2006) by The Social Security (Persons from Abroad) Amendment Regulations 2006 (S.I. 2006/1026), regs. 1, **6(2)(a)(ii)** (with reg. 11(2))
- F48** 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))
- F49** 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)**
- F50** Words in reg. 21(3) substituted (E.W.) (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 1(1), **Sch. 2 para. 3(4)(a)(i)**; and (S.) (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Subordinate Legislation) Order 2005 (S.S.I. 2005/445), arts. 1, 2, **sch. para. 3(3)(a)(i)**
- F51** Words in reg. 21(3) omitted (24.10.2005) by virtue of The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 5(a)**
- F52** Reg. 21(3A)-(3E) omitted (24.10.2005) by virtue of The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 5(b)**
- F53** Reg. 21(3F)(3G) omitted (30.4.2006) by virtue of The Social Security (Persons from Abroad) Amendment Regulations 2006 (S.I. 2006/1026), regs. 1, **6(2)(b)** (with reg. 11(2))
- F54** Reg. 21(4)-(4B) omitted (24.10.2005) by virtue of The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 5(b)**

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

- C5** Reg. 21 applied (with modifications) (S.) (6.10.2003) by The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (S.S.I. 2003/460), reg. 1, **sch. Pt. II** Table B (with reg. 13)
- C6** Reg. 21(1): sum confirmed (with effect in accordance with art. 1(2)(h) of the amending S.I.) by The Social Security Benefits Up-rating Order 2009 (S.I. 2009/497), **art. 16(2)(a)**



#### Commencement Information

**I4** Reg. 21 in force at 11.4.1988, see [reg. 1](#)

#### [<sup>F55</sup>Special cases: supplemental – persons from abroad

**21AA.**—(1) "Person from abroad" means, subject to the following provisions of this regulation, a claimant who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(2) No claimant shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (3).

(3) A right to reside falls within this paragraph if it is one which exists by virtue of, or in accordance with, one or more of the following—

- (a) regulation 13 of the Immigration (European Economic Area) Regulations 2006;
- (b) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the claimant is—
  - (i) a jobseeker for the purpose of the definition of "qualified person" in regulation 6(1) of those Regulations, or
  - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
- (c) Article 6 of Council Directive No.2004/38/EC; or
- (d) Article 39 of the Treaty establishing the European Community (in a case where the claimant is a person seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland).

(4) A claimant is not a person from abroad if he is—

- (a) a worker for the purposes of Council Directive No.2004/38/EC;
- (b) a self-employed person for the purposes of that Directive;
- (c) a person who retains a status referred to in sub-paragraph (a) or (b) pursuant to Article 7(3) of that Directive;
- (d) a person who is a family member of a person referred to in sub-paragraph (a), (b) or (c) within the meaning of Article 2 of that Directive;
- (e) a person who has a right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive;

[<sup>F56</sup>(f) a person who is treated as a worker for the purpose of the definition of "qualified person" in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—

- (i) regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004 (application of the 2006 Regulations in relation to a national of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia or the Slovak Republic who is an "accession State worker requiring registration"), or
- (ii) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an "accession State national subject to worker authorisation");]

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- (g) 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;
- [<sup>F57</sup>(h) a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971;
- (hh) a person who has humanitarian protection granted under those rules;]
- (i) 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; <sup>F58</sup>...
- (j) a 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][<sup>F59</sup>; or
- (k) a person who—
  - (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
  - (ii) immediately before arriving there had been resident in Zimbabwe; and
  - (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.]

**Textual Amendments**

- F55** Reg. 21AA inserted (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), regs. 1, **6(3)** (with reg. 11(2))
- F56** Reg. 21AA(4)(f) substituted (1.1.2007) by [The Social Security \(Bulgaria and Romania\) Amendment Regulations 2006 \(S.I. 2006/3341\)](#), regs. 1, **2(2)**
- F57** Reg. 21AA(4)(hh) substituted for reg. 21AA(4)(h) (9.10.2006) by [The Social Security \(Persons from Abroad\) Amendment \(No. 2\) Regulations 2006 \(S.I. 2006/2528\)](#), regs. 1, **2(2)**
- F58** Word in reg. 21AA(4)(i) omitted (18.3.2009) by virtue of [The Social Security \(Habitual Residence\) \(Amendment\) Regulations 2009 \(S.I. 2009/362\)](#), regs. 1(2), **2(2)**
- F59** Reg. 21AA(4)(k) and word added (18.3.2009) by [The Social Security \(Habitual Residence\) \(Amendment\) Regulations 2009 \(S.I. 2009/362\)](#), regs. 1(2), **2(3)**

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

- C7** Reg. 21AA(4)(a)-(e) applied (with modifications) (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), regs. 1, **10(e)** (with reg. 11(2))

**Treatment of refugees**

<sup>F60</sup>**21ZB.** . . . . .

**Textual Amendments**

- F60** Reg. 21ZB ceases to have effect (14.6.2007) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. **12(2)(a)(i)**, 48(3)(c); S.I. 2007/1602, art. 2(1) (with art. 2(3))

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

<sup>F61</sup>**21A.** . . . . .

**Textual Amendments**

**F61** 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>F62</sup>22. ....

**Textual Amendments**

**F62** 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>F63</sup>Reduction in applicable amount where the claimant is appealing against a decision [<sup>F64</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>F65</sup>[<sup>F66</sup>which embodies a determination] that they are not incapable of work under the 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<sup>F67</sup>... 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

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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>F68</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>F69</sup>which embodies a determination] that he is not incapable of work under the [<sup>F70</sup>personal capability assessment] where that [<sup>F71</sup>determination] was [<sup>F72</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**

- F63** 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**
- F64** 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)**
- F65** 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)**
- F66** 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**
- F67** Words in reg. 22A(1)(a) omitted (1.10.2007) by virtue of The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **5(4)**
- F68** 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**
- F69** 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)**
- F70** 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**
- F71** 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)**
- F72** 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)**

- C8** Reg. 22A(1): sum confirmed (with effect in accordance with art. 1(2)(h) of the amending S.I.) by The Social Security Benefits Up-rating Order 2009 (S.I. 2009/497), art. 16(7), **Sch. 4**
- C9** 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)**

**[<sup>F73</sup>Period for which applicable amount is to be calculated where person not excluded from income support under section 115 of the Immigration and Asylum Act 1999**

**22B.** Where paragraph 1 of Part 1 of the Schedule to the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 applies in respect of entitlement to income support, the period for which a claimant's weekly applicable amount is to be calculated shall be any period, or the aggregate of any periods, not exceeding 42 days during any one period of leave to which that paragraph of that Part of the Schedule to those Regulations applies.]

**Textual Amendments**

**F73** Reg. 22B inserted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2009 (S.I. 2009/3228), reg. 3(2)(c)

**Status:**

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**Changes to legislation:**

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