
STATUTORY INSTRUMENTS

1987 No. 1967

The Income Support (General) Regulations 1987

PART VI

URGENT CASES

Urgent cases

70.—(1) In a case to which this regulation applies, a claimant' weekly applicable amount and his income and capital shall be calculated in accordance with the following provisions of this Part.

(2) Subject to paragraph (4), this regulation applies to—

- (a) a claimant to whom paragraph (3) (certain persons from abroad) applies;
- (b) a claimant who is treated as possessing income under regulation 42(3) (notional income);

^{F1}(c)

(3) This paragraph applies to a person from abroad within the meaning of regulation 21 (3) (special cases) who—

- (a) having, during any one period of limited leave of a kind referred to in sub-paragraph (a) of that definition (including any period as extended), supported himself without recourse to public funds other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted provided that there is a reasonable expectation that his supply of funds will be resumed;

^{F2}(b) is an asylum seeker for the purposes of paragraph 3A;

- (c) is awaiting the outcome of an appeal made under Part II of the 1971 Act (including any period for which the appeal is treated as pending under section 33 (4) of that Act);

^{F3}(d)

- (e) is a person to whom sub-paragraph (c) of that definition applies but whose removal from the United Kingdom has been deferred in writing by the Secretary of State;

- (f) is a person, other than someone to whom sub-paragraph (c) of that definition applies, who has been granted permission to remain in the United Kingdom pending the removal of a person to whom sub-paragraph (e) applies;

- (g) is a person who has no or no further right of appeal under the 1971 Act but has been allowed to remain in the United Kingdom while an application so to remain is, or representations on his behalf are, being considered by the Secretary of State;

- (h) is a person to whom sub-paragraph (d) of that definition applies and who has been allowed to remain in the United Kingdom with the consent in writing of the Secretary of State;

- (i) is a person to whom sub-paragraph (e), (f) or (g) of that definition applies and whose applicable amount, but for this sub-paragraph, would if calculated in accordance with regulation 21 (special cases) be nil;

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- (j) he is a person other than one to whom sub-paragraph (e) applies who is subject to a direction for his removal from the United Kingdom, but whose removal has been deferred in writing by the Secretary of State.

[^{F4}(3A) For the purposes of this paragraph, a person—

- (a) becomes an asylum seeker when he has submitted a claim for asylum to the Secretary of State that it would be contrary to the United Kingdom’s obligations under the Convention for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made; and
- (b) ceases to be an asylum seeker when his claim is recorded by the Secretary of State as having been finally determined or abandoned.

(3B) In paragraph (3A), “the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the protocol to that Convention.]

(4) This regulation shall only apply to a person to whom paragraph (2)(b) [^{F5}applies, where the income he is treated as possessing by virtue of regulation 42(3) (notional income)] is not readily available to him; and

- (a) the amount of income support which would be payable but for this Part is less than the amount of income support payable by virtue of the provisions of this Part; and
- (b) the adjudication officer is satisfied that, unless the provisions of this Part are applied to the claimant, the claimant or his family will suffer hardship.

Textual Amendments

- F1** Reg. 70(2)(c) omitted (9.10.1989) by virtue of [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **16(a)**
- F2** Reg. 70(3)(b) substituted (2.8.1993) by [The Income Support \(General\) Amendment No. 3 Regulations 1993 \(S.I. 1993/1679\)](#), regs. 1(1), **2(2)(a)** (with reg. 2(4))
- F3** Reg. 70(3)(d) omitted (2.8.1993) by virtue of [The Income Support \(General\) Amendment No. 3 Regulations 1993 \(S.I. 1993/1679\)](#), regs. 1(1), **2(2)(b)** (with reg. 2(4))
- F4** Reg. 70(3A)(3B) inserted (2.8.1993) by [The Income Support \(General\) Amendment No. 3 Regulations 1993 \(S.I. 1993/1679\)](#), regs. 1(1), **2(3)** (with reg. 2(4))
- F5** Words in reg. 70(4) substituted (9.10.1989) by [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **16(b)**

Commencement Information

- I1** Reg. 70 in force at 11.4.1988, see reg. 1

Applicable amounts in urgent cases

71.—(1) For the purposes of calculating any entitlement to income support under this Part—

- (a) except in a case to which [^{F6}sub-paragraph (b), (c) or (d),] applies, a claimant’ weekly applicable amount shall be the aggregate of—
- (i) 90 per cent of the amount applicable in respect of himself or, if he is a member of a couple or of a polygamous marriage, of the amount applicable in respect of both of them under paragraph 1 (1), (2) or (3) of Schedule 2 or, as the case may be, the amount applicable in respect of them under regulation 18 (polygamous marriages); and where regulation 22 (reduction in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) applies, the reference in this head to 90 per cent of the amount applicable shall be construed as a reference to 90 per

- cent of the relevant amount under that regulation reduced by the percentage specified in paragraph (1) or (2), as the case may be, of that regulation;
- (ii) the amount applicable under 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, [^{F7}except as provided in regulation 44(1) (modifications in respect of children and young person)], would exceed £3,000;
 - (iii) the amount, if applicable, specified in [^{F8}Part II or III of Schedule 2 (premiums)]; and
 - (iv) any amounts applicable under [^{F9}regulation 17(1)(e) or, as the case may be, 18(1)(f) (housing costs)]; [^{F10}and
 - (v) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A][^{F11}or, as the case may be, 3B];
 - [^{F12}(vi) the amount, if applicable, specified in paragraph 2A of Schedule 2;]
- (b) [^{F13}^{F14}where the claimant is a resident in ... a residential care home or a nursing home [^{F15}and has a preserved right], his weekly applicable amount shall be the aggregate of—
- (i) 90 per cent of the amount of the allowance for personal expenses prescribed in paragraph 13 (a) of Schedule 4 (applicable amounts of persons in residential care and nursing homes) [^{F16}... or, if he is a member of a couple or of a polygamous marriage, of the amount applicable in respect of both or all of them; and where regulation 22 (reduction in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) applies, the reference in this head to 90 per cent of the amount so reduced shall be construed as a reference to 90 per cent of the relevant amount under that regulation reduced by the percentage specified in paragraph (1) or (2), as the case may be, of that regulation;
 - (ii) the amount applicable under paragraph 13 (b) to (e) of Schedule 4 [^{F17}... 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, [^{F7}except as provided in regulation 44(1) (modifications in respect of children and young person)], would exceed £3,000;
 - (iii) the amount in respect of the weekly charge for his accommodation calculated in accordance with regulation 19 and Schedule 4 [^{F18}... except any amount in respect of a child or young person who is a member of the family and whose capital, if calculated in accordance with Part V in like manner as for the claimant, [^{F7}except as provided in regulation 44(1) (modifications in respect of children and young person)], would exceed £3,000.
- (c) where the claimant is resident in residential accommodation, his weekly applicable amount shall be the aggregate of—
- (i) [^{F19}98 per cent] of the amount [^{F20}... referred to in column (2) of paragraph 13 (a) to (c) and (e) of Schedule 7 (applicable amounts in special cases) applicable to him;
 - (ii) the amount applicable under column (2) of paragraph 13 (d) of Schedule 7, 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, [^{F7}except as provided in regulation 44(1) (modifications in respect of children and young person)], would exceed £3,000;
 - [^{F21}(iii)

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- [^{F22}(d) except where sub-paragraph (b) or (c) applies, in the case of a person to whom any paragraph, other than paragraph 17, in column (1) of Schedule 7 (special cases) applies, the amount shall be 90% of the amount applicable in column 2 of that Schedule in respect of the claimant and partner (if any), plus, if applicable—
- (i) any amount in respect of a child or young person who is a member of the family except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, [^{F7}except as provided in regulation 44(1) (modifications in respect of children and young person)], would exceed £3,000;
 - (ii) any premium under [^{F23}Part II or III of Schedule 2]; and
 - [^{F24}(iii) any amounts applicable under regulation 17(1)(e) or, as the case may be, 18(1)(f)] [^{F25}and
 - (iv) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A] [^{F26}or, as the case may be, 3B].
- (2) The period for which a claimant' weekly applicable amount is to be calculated in accordance with paragraph (1) where paragraph (3) of regulation 70 (urgent cases) applies shall be—
- (a) in a case to which sub-paragraph (a) of paragraph (3) of that regulation applies, any period, or the aggregate of any periods, not exceeding 42 days during any one period of leave to which that regulation applies;
 - (b) in a case to which sub-paragraph (b) of paragraph (3) of that regulation applies—
 - (i) the period ending not later than the date on which that determination is sent to the claimant; or
 - (ii) if he has a right to appeal against the determination under Part II of the 1971 Act, the period ending not later than 28 days after the date on which that determination is sent to him;
 - (c) in a case to which sub-paragraph (c) of paragraph (3) of that regulation applies, the period ending not later than the end of the period for which that appeal is treated as pending under section 33 (4) of the 1971 Act;
 - (d) in a case to which sub-paragraph (d) of paragraph (3) of that regulation applies, the period ending not later than—
 - (i) where the application referred to in that regulation is successful, the date on which that determination is sent to the claimant; or
 - (ii) where that application is refused, the date on which he is removed from the United Kingdom;
 - (e) in any case to which sub-paragraph (e), (f), (g), (h) or (j) of paragraph (3) of that regulation applies, the period ending not later than—
 - (i) the date on which the claimant is removed from the United Kingdom; or
 - (ii) where given leave (within the meaning of section 33 of the 1971 Act) to remain in the United Kingdom, or otherwise permitted in writing by the Secretary of State to remain in the United Kingdom, the date on which that leave was given;
 - (f) in a case to which sub-paragraph (i) of paragraph (3) of that regulation applies, the period ending not later than the date on which—
 - (i) leave (within the meaning of section 33 of the 1971 Act) is granted; or
 - (ii) he is removed from the United Kingdom; or
 - (iii) his immigration status is determined by the Secretary of State,

[^{F27}(3) Where the calculation of a claimant's applicable amount under this regulation results in a fraction of a penny that fraction shall be treated as a penny.]

Textual Amendments

- F6** Words in reg. 71(1)(a) substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **25(a)**
- F7** Words in reg. 71(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), **6**
- F8** Words in reg. 71(1)(a)(iii) substituted (10.7.1989) by [The Family Credit and Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/1034\)](#), regs. 1(1)(a), **9(a)**
- F9** Words in reg. 71(1)(a)(iv) substituted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **15(a)**
- F10** Reg. 71(1)(a)(v) and word inserted (10.4.1989) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), reg. 1(1)(c), **Sch. 1 para. 13(a)** (with reg. 28)
- F11** Words in reg. 71(1)(a)(v) 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**
- F12** Reg. 71(1)(a)(vi) added (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), **17(2)**
- F13** Words in reg. 71(1)(b) omitted (10.4.1989) by virtue of [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), reg. 1(1)(c), **Sch. 1 para. 5** (with reg. 28)
- F14** Words in reg. 71(1)(b) 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. 8**
- F15** Words in reg. 71(1)(b) 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), **17(3)**
- F16** Words in reg. 71(1)(b)(i) 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. 8(i)**
- F17** Words in reg. 71(1)(b)(ii) 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. 8(ii)**
- F18** Words in reg. 71(1)(b)(iii) omitted (with effect in accordance with reg. 1(1)(c) of the amending S.I.) by virtue of [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), reg. 1(1), **Sch. 1 para. 8(iii)**
- F19** Words in reg. 71(1)(c) 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. 4(a)**
- F20** Words in reg. 71(1)(c)(i) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Income-related Benefits Schemes \(Miscellaneous Amendments\) \(No. 4\) Regulations 1993 \(S.I. 1993/2119\)](#), regs. 1(1)(a), **17(4)**
- F21** Words in reg. 71(1)(c) omitted (1.4.1993) by virtue of [The Social Security Benefits \(Amendments Consequential Upon the Introduction of Community Care\) Regulations 1992 \(S.I. 1992/3147\)](#), reg. 1(1), **Sch. 1 para. 4(b)**
- F22** Reg. 71(1)(d) added (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **25(b)**
- F23** Words in reg. 71(1)(d)(ii) substituted (10.7.1989) by [The Family Credit and Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/1034\)](#), regs. 1(1)(a), **9(b)**

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- F24** Reg. 71(1)(d)(iii) substituted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **15(b)**
- F25** Reg. 71(1)(d)(iv) and word inserted (10.4.1989) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), reg. 1(1)(c), **Sch. 1 para. 13(b)** (with reg. 28)
- F26** Words in reg. 71(1)(d)(iv) 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**
- F27** Reg. 71(3) added (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **25(c)**

Modifications etc. (not altering text)

- C1** Reg. 71(1)(a)(i) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), art. 16(12), **Sch. 8**
- C2** Reg. 71(1)(a)(ii) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), **art. 16(2)**
- C3** Reg. 71(1)(b)(i) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), art. 16(12), **Sch. 8**
- C4** Reg. 71(1)(b)(ii)(iii) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), **art. 16(2)**
- C5** Reg. 71(1)(c)(i) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), art. 16(12), **Sch. 8**
- C6** Reg. 71(1)(c)(ii) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), **art. 16(2)**
- C7** Reg. 71(1)(d) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), art. 16(12), **Sch. 8**
- C8** Reg. 71(1)(d)(i) sum confirmed (coming into force in accordance with art. 1(2)(f) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), **art. 16(2)**

Commencement Information

- I2** Reg. 71 in force at 11.4.1988, see reg. 1

Assessment of income and capital in urgent cases

72.—(1) The claimant' income shall be calculated in accordance with Part V subject to the following modifications—

- ^{F28}(a) any income, other than a payment of income [^{F29}or income in kind] made under the Macfarlane Trust^{F30}, the Macfarlane (Special Payments) Trust^{F31}, the Macfarlane (Special Payments) (No. 2) Trust^{F32}, the Fund^{F33}, the Eileen Trust]] or [^{F34}the Independent Living Funds]^{F35}or income to which [^{F36}paragraph 5, 39(2), (3) or (4),] 40, 42, or 44 of Schedule 9 (disregard of income other than earnings) applies], possessed or treated as possessed by him shall be taken into account in full notwithstanding any provision in that Part disregarding the whole or any part of that income;
- (b) any income to which regulation 53 (calculation of tariff income from capital) applies shall be disregarded;
- (c) income treated as capital by virtue of [^{F37}regulation 48(1), (2), (3) and (9)] (income treated as capital) shall be taken into account as income;
- (d) in a case to which paragraph (2) (b) of regulation 70 (urgent cases) applies, any income to which regulation 42 (3) (notional income) applies shall be disregarded;
- ^{F38}(e)

(2) The claimant' capital calculated in accordance with Part V, but including any capital referred to in paragraphs 3 and, to the extent that such assets as are referred to in paragraph 6 consist of liquid assets, 6 [^{F39}and, except to the extent that the arrears referred to in paragraph 7 consist of arrears of housing benefit payable under Part II of the Act or Part II of the Social Security and Housing Benefits Act 1982, 7, 9(b), 19, 30 and 32 of Schedule 10] (capital to be disregarded) shall be taken into account in full and the amount of income support which would, but for this paragraph be payable under this regulation, shall be payable only to the extent that it exceeds the amount of that capital.

Textual Amendments

- F28** Reg. 72(1)(a) substituted (9.6.1988) by [The Family Credit and Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/999\)](#), regs. 1(1), **6**
- F29** Words in reg. 72(1)(a) inserted (11.5.1991) by [The Income-related Benefits Schemes and Social Security \(Recoupment\) Amendment Regulations 1991 \(S.I. 1991/1175\)](#), regs. 1(1), **5(6)(a)**
- F30** Words in reg. 72(1) inserted (31.1.1990) by [The Income-related Benefits Schemes Amendment Regulations 1990 \(S.I. 1990/127\)](#), regs. 1(1), **3(3)(d)**
- F31** Words in reg. 72(1)(a) inserted (11.5.1991) by [The Income-related Benefits Schemes and Social Security \(Recoupment\) Amendment Regulations 1991 \(S.I. 1991/1175\)](#), regs. 1(1), **5(6)(b)**
- F32** Words in reg. 72(1)(a) inserted (7.5.1992) by [The Income-related Benefits Schemes and Social Security \(Recoupment\) Amendment Regulations 1992 \(S.I. 1992/1101\)](#), regs. 1(1), **6(6)**
- F33** Words in reg. 72(1)(a) inserted (14.5.1993) by [The Income-related Benefits Schemes and Social Security \(Recoupment\) Amendment Regulations 1993 \(S.I. 1993/1249\)](#), regs. 1(1)(a), **4(3)(d)**
- F34** Words in reg. 72(1)(a) substituted (22.4.1993) by [The Social Security Benefits \(Miscellaneous Amendments\) \(No. 2\) Regulations 1993 \(S.I. 1993/963\)](#), regs. 1, **2(3)(4)**
- F35** Words in reg. 72(1)(a) inserted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **15(a)**
- F36** Words in reg. 72(1)(a) substituted (11.5.1991) by [The Income-related Benefits Schemes and Social Security \(Recoupment\) Amendment Regulations 1991 \(S.I. 1991/1175\)](#), regs. 1(1), **5(6)(c)**
- F37** Words in reg. 72(1)(c) substituted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **15(b)**
- F38** Reg. 72(1)(e) omitted (9.10.1989) by virtue of [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **17**
- F39** Words in reg. 72(2) substituted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **15(c)**

Commencement Information

- I3** Reg. 72 in force at 11.4.1988, see reg. 1

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Changes to legislation:

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