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## STATUTORY INSTRUMENTS

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# 1987 No. 1967

## The Income Support (General) Regulations 1987

### PART IV

#### APPLICABLE AMOUNTS

##### Special cases

21.—(1) Subject to [F1]regulations 21A and 22] (reductions in applicable amounts) in the case of a person to whom any paragraph in column (1) of Schedule 7 applies (applicable amounts in special cases), the amount included in the claimant's weekly amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule; but no amount shall be included in respect of a child or young person if the capital of that child or young person calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

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

(3) In Schedule 7—

“person from abroad” means a person, who—

- (a) has a limited leave as defined in section 33(1) of the Immigration Act 1971 <sup>F2</sup> (hereinafter referred to as “the 1971 Act”) to enter or remain in the United Kingdom which was given in accordance with any provision of the immigration rules (as defined in that section) which refers to there being, or to there needing to be, no recourse to public funds or to there being no charge on public funds during that limited leave; but this sub-paragraph shall not apply to a person who is a national of a Member State, a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) <sup>F3</sup>, [F4]a state which is a signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961),] the Channel Islands or the Isle of Man [F5]unless, in the case of a national of a state which is a signatory of that European Convention, he has made an application for the conditions of his leave to remain in the United Kingdom to be varied, and that application has not been determined or an appeal from that application is pending under Part II of the 1971 Act (appeals);] or
- (b) having a limited leave (as defined in section 33(1) of the 1971 Act) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or
- (c) is the subject of a deportation order being an order under section 5(1) of the 1971 Act (deportation) requiring him to leave and prohibiting him from entering the United Kingdom; or

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- (d) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the 1971 Act) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom; or
- (e) has been allowed temporary admission to the United Kingdom by virtue of paragraph 21 of Schedule 2 to the 1971 Act; or
- (f) has been allowed temporary admission to the United Kingdom by the Secretary of State outside any provision of the 1971 Act; or
- (g) has not had his immigration status determined by the Secretary of State;

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975 <sup>F6</sup>.

“prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person whose detention is under the provisions of the Mental Health Act 1983 <sup>F7</sup> or Mental Health (Scotland) Act 1984;

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

- (a) sections 21 to 24 and 26 of the National Assistance Act 1948 <sup>F8</sup> (provision of accommodation); or
- (b) in Scotland, for the purposes of section 27 of the National Health Service (Scotland) Act 1947 <sup>F9</sup> (prevention of illness and after-care) or under section 59 of the Social Work (Scotland) Act 1968 <sup>F10</sup> (provision of residential and other establishments) other than in premises which are registered under section 61 of that Act (registration) and which are used for the rehabilitation of alcoholics or drug addicts; or
- (c) under section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities); or
- (d) under section 21 of, and paragraph 1 or 2 of Schedule 8 to, the National Health Service Act 1977 <sup>F11</sup> (care of mothers and young children, prevention, care and aftercare) by a local social services authority other than—
  - (i) such accommodation [<sup>F12</sup>where no board is] available to the person; or
  - (ii) accommodation provided under the said section 21 and paragraph 2 which is registered under the provisions of Part I of the Registered Homes Act 1984 where the premises are used for the rehabilitation of alcoholics or drug users; or
  - (iii) <sup>F13</sup> ...

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

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

- (ii) the local authority accepts responsibility for the making of arrangements for the provision of such accommodation for that person in the light of that person being entitled to such maximum amount as a person in a residential care home under and by virtue of that regulation, provided that in the case of a person over pensionable age the local authority had accepted such responsibility for a period of not less than 2 years immediately before that person attained pensionable age.

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

#### Textual Amendments

- F1** Words in reg. 21(1) substituted (17.12.1990) by [The Income Support \(General and Transitional\) Amendment Regulations 1990 \(S.I. 1990/2324\)](#), regs. 1(1), **2**
- F2** 1971 c. 77, as amended by the [British Nationality Act 1981 \(c. 61\)](#), **section 39** and Schedule 4.
- F3** Cmnd 9512.
- F4** Words in reg. 21(3) inserted (8.4.1991) by [The Income Support \(General\) Amendment Regulations 1991 \(S.I. 1991/236\)](#), regs. 1(1)(b), **7** (with reg. 1(2))
- F5** Words in reg. 21(3) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1990 \(S.I. 1990/547\)](#), regs. 1(1)(b), **8**
- F6** S.I. 1975/555, the relevant amending instruments are 1977/1693 and 1987/1683.
- F7** 1983 c. 72.
- F8** 1948 c. 29; section 21 was amended by the [Local Government Act 1972 \(c. 70\)](#), **Schedule 23**, paragraphs 1 and 2 and Schedule 30; the [National Health Service Reorganisation Act 1973 \(c. 32\)](#), **Schedule 4**, paragraph 44 and Schedule 5; the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), **Schedule**; the [National Health Service Act 1977 \(c. 49\)](#), **Schedule 15**, paragraph 5; the [Health Services Act 1980 \(c. 53\)](#), **Schedule 1**, Part I, paragraph 5. Section 22 was amended by the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), **section 87(4)** and Schedule 9, Part I; the [Supplementary Benefits Act 1976 \(c. 71\)](#), **Schedule 7**, paragraph 3; the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), **Schedule**; the [Social Security Act 1980 \(c. 30\)](#), section 20, **Schedule 4**, paragraph 2(1) and Schedule 5, Part II and the [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), **section 20(1)(a)**. Section 24 was amended by the [National Assistance \(Amendment\) Act 1959 \(c. 30\)](#), **section 1(1)**; the [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Schedule 6**, paragraph 82; the [Local Government Act 1972 \(c. 70\)](#), **Schedule 23**, paragraph 2; the [National Health Service Reorganisation Act 1972 \(c. 32\)](#), **Schedule 4**, paragraph 45 and the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), **Schedule**. Section 26 was amended by the [Health Services and Public Health Act 1968 \(c. 46\)](#), **section 44** and Schedule 4 and the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#) Schedule 9, Part I and applied by section 87(3); the [Local Government Act 1972 \(c. 70\)](#), **Schedule 23**, paragraph 2; the [Housing \(Homeless Persons\) Act 1977 \(c. 48\)](#), **Schedule** and the [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), **section 20(1)(b)**.
- F9** 1947 c. 27, as applied by section 1(4)(c) of the [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), **section 27** for the purposes of section 1(4)(c) of the 1968 Act is continued in force by paragraph 15 of Schedule 15 of the [National Health Service \(Scotland\) Act 1978 \(c. 29\)](#).
- F10** 1968 c. 49.
- F11** 1977 c. 49, **paragraph 1(2)** and 2(5) of Schedule 8 were repealed by section 30 of, and Schedule 10 to, the [Health and Social Services and Social Security Adjudications Act 1983](#), and paragraph 2(1) and (3) of Schedule 8 were amended by section 148 of, and Schedule 4 to, the [Mental Health Act 1983 \(c. 20\)](#).
- F12** Words in reg. 21(3)(d)(i) substituted (with effect in accordance with reg. 1(1)(c) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), reg. 1(1), **Sch. 1 para. 5(i)**

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*Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, Section 21. (See end of Document for details)*

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**F13** Reg. 21(3)(d)(iii) omitted (with effect in accordance with reg. 1(1)(c) of the amending S.I.) by virtue of The Income Support (General) Amendment Regulations 1989 (S.I. 1989/534), reg. 1(1), **Sch. 1 para. 5(ii)**

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

**C1** Reg. 21(1) sum confirmed (8.4.1991 for specified purposes) by The Social Security Benefits Up-rating Order 1991 (S.I. 1991/503), arts. 1(2)(f), **14(2)**

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**Commencement Information**

**I1** Reg. 21 in force at 11.4.1988, see reg. 1

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**Changes to legislation:**

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