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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 [<sup>F1</sup>paragraph (1B),][<sup>F2</sup>[<sup>F3</sup>regulation 21ZB] (treatment of refugees) and][<sup>F4</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>F5</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)], would exceed £3,000.

[<sup>F6</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>F7</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>F8</sup>Subject to paragraph (3F),] in Schedule 7—

[<sup>F9</sup>“partner of a person subject to immigration control” means a person—

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

<sup>F10</sup>  
...

[<sup>F11</sup>“person from abroad” <sup>F12</sup>... means a claimant who is not habitually resident in the United Kingdom, [<sup>F13</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—

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*Status: Point in time view as at 08/04/2002. This version of this provision has been superseded.*

*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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- (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>F14</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>F15</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>F16</sup>.

[<sup>F17</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>F18</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>F19</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>F20</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>F21</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>F22</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>F23</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>F24</sup>....]

[<sup>F25</sup>(3B) In a case where on 31st March 1993 a person was in or was temporarily absent from accommodation provided under section 26 of the National Assistance Act 1948, the definition of “residential accommodation” in paragraph (3) shall have effect in relation to that case as if for the words “provided by a local authority in a home owned or managed by that or another authority” there were substituted the words “provided in accordance with arrangements made by a local authority”, and for the words in sub-paragraph (a) “under sections 21 to 24<sup>F26</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>F27</sup>local] authority” there were inserted the words “or provided in accordance with arrangements made by a local authority”.]

[<sup>F28</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>F29</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>F30</sup>(b) .....

[<sup>F31</sup>(c) for whom board is not provided.]

[<sup>F32</sup>(4A) [<sup>F33</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>F34</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

- F1** 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)**
- F2** 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](#)
- F3** 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\(2\)\(a\)](#))
- F4** 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](#)
- F5** 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](#)
- F6** [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](#)
- F7** [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)**
- F8** Words in [reg. 21\(3\)](#) inserted (28.8.1996) by [The Income-related Benefits \(Montserrat\) Regulations 1996 \(S.I. 1996/2006\)](#), [regs. 1, 4\(2\)](#)
- F9** 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\(4\)\(c\)](#)
- F10** 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\(4\)\(b\)](#)
- F11** 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\(2\)](#))
- F12** 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\(4\)\(d\)](#)
- F13** 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](#))
- F14** 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\(3\)\(4\)\(c\)](#)
- F15** 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](#)
- F16** [S.I. 1975/555](#), the relevant amending instruments are [1977/1693](#) and [1987/1683](#).
- F17** 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\(2\)](#))
- F18** 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\(1\)\(2\)\(c\)\(i\)](#)
- F19** 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\(a\)](#)

- F20** 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))
- F21** 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)**
- F22** 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)**
- F23** 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)**
- F24** 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**
- F25** 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)**
- F26** 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))
- F27** 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**
- F28** 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)**
- F29** Reg. 21(3F) inserted (28.8.1996) by [The Income-related Benefits \(Montserrat\) Regulations 1996 \(S.I. 1996/2006\)](#), regs. 1, **4(3)**
- F30** 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))
- F31** 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)**
- F32** 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)**
- F33** 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)**
- F34** 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)**

- C1** [Reg. 21\(1\)](#) sum confirmed (8.4.2002 for specified purposes and with application in accordance with art. 1(2)(g)(4)) by [The Social Security Benefits Up-rating Order 2002 \(S.I. 2002/668\)](#), arts. 1(2)(g), **16(2)(a)**

#### **Commencement Information**

- I1** Reg. 21 in force at 11.4.1988, see [reg. 1](#)

**Status:**

Point in time view as at 08/04/2002. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, Section 21.