

[<sup>F1</sup>SCHEDULE 3

Regulations 17(1)(e) and 18(1)(f)

HOUSING COSTS

**Textual Amendments**

- F1** Sch. 3 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Income Support and Claims and Payments\) Amendment Regulations 1995 \(S.I. 1995/1613\)](#), reg. 1(1), Sch. 1

**Housing Costs**

1.—(1) Subject to the following provisions of this Schedule, the housing costs applicable to claimant are those costs—

- (a) which he or, where he is a member of a family, he or any member of that family is, in accordance with paragraph 2, liable to meet in respect of the dwelling occupied as the home which he or any other member of his family is treated as occupying, and
- (b) which qualify under paragraphs 15 to 17.

(2) In this Schedule—

“housing costs” means those costs to which sub-paragraph (1) refers;

“existing housing costs” means housing costs arising under an agreement entered into before 2nd October 1995, or under an agreement entered into after 1st October 1995 (“the new agreement”)—

- (a) which replaces an existing agreement between the same parties in respect of the same property; and
- (b) where the existing agreement was entered into before 2nd October 1995; and
- (c) which is for a loan of the same amount as or less than the amount of the loan under the agreement it replaces, and for this purpose any amount payable <sup>F2</sup>... to arrange the new agreement and included in the loan shall be disregarded;

“new housing costs” means housing costs arising under an agreement entered into after 1st October 1995 other than an agreement referred to in the definition of “existing housing costs”;

“standard rate” means the rate for the time being specified in paragraph 12.

(3) For the purposes of this Schedule a disabled person is a person—

- (a) in respect of whom a disability premium, a disabled child premium, a pensioner premium for persons aged 75 or over or a higher pensioner premium is included in his applicable amount or the applicable amount of a person living with him; or
- (b) <sup>F3</sup>... who, had he in fact been entitled to income support, would have had included in his applicable amount a disability premium, a disabled child premium, a pensioner premium for persons aged 75 or over or a higher pensioner premium.

(4) For the purposes of sub-paragraph (3), a person shall not cease to be a disabled person on account of his being disqualified for receiving benefit or treated as capable of work by virtue of the operation of section 171E of the Contributions and Benefits Act (incapacity for work, disqualification etc.).

**Textual Amendments**

- F2** Words in Sch. 3 para. 1(2) omitted (12.12.1995) by virtue of [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), 5(2)(a)

*Status: Point in time view as at 09/04/2001.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3. (See end of Document for details)*

**F3** Words in Sch. 3 para. 1(3) omitted (12.12.1995) by virtue of [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), 5(2)(b)

#### [<sup>F4</sup>Previous entitlement to income-based jobseeker's allowance

**1A.**—(1) Where a claimant or his partner was in receipt of or was treated as being in receipt of income-based jobseeker's allowance not more than 12 weeks before one of them becomes entitled to income support or, where the claimant or his partner is a person to whom paragraph 14(2) or (8) (linking rules) refers, not more than 26 weeks before becoming so entitled and—

- (a) the applicable amount for that allowance included an amount in respect of housing costs under paragraph 14 or 15 of Schedule 2 to the Jobseeker's Allowance Regulations 1996; and
- (b) the circumstances affecting the calculation of those housing costs remain unchanged since the last calculation of those costs,

the applicable amount in respect of housing costs for income support shall be the applicable amount in respect of those costs current when entitlement to income-based jobseeker's allowance was last determined.

(2) Where, in the period since housing costs were last calculated for income-based jobseeker's allowance, there has been a change of circumstances, other than a reduction in the amount of an outstanding loan, which increases or reduces those costs, the amount to be met under this Schedule shall, for the purposes of the claim for income support, be recalculated so as to take account of that change.]

#### Textual Amendments

**F4** Sch. 3 para. 1A inserted (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), regs. 1, 2(2)(a)

#### Circumstances in which a person is liable to meet housing costs

**2.**—(1) A person is liable to meet housing costs where—

- (a) the liability falls upon him or his partner but not where the liability is to a member of the same household as the person on whom the liability falls;
- (b) because the person liable to meet the housing costs is not meeting them, the claimant as to meet those costs in order to continue to live in the dwelling occupied as the home and it is reasonable in all the circumstances to treat the claimant as liable to meet those costs;
- (c) he in practice shares the housing costs with other members of the household none of whom are close relatives either of the claimant or his partner, and
  - (i) one or more of those members is liable to meet those costs, and
  - (ii) it is reasonable in the circumstances to treat him as sharing responsibility.

(2) Where any one or more, but not all, members of the claimant's family are affected by a trade dispute, the housing costs shall be treated as wholly the responsibility of those members of the family not so affected.

#### Circumstances in which a person is to be treated as occupying a dwelling as his home

**3.**—(1) Subject to the following provisions of this paragraph, a person shall be treated as occupying as his home the dwelling normally occupied as his home by himself or, if he is a member

of a family, by himself and his family and he shall not be treated as occupying any other dwelling as his home.

(2) In determining whether a dwelling is the dwelling normally occupied as the claimant's home for the purposes of sub-paragraph (1) regard shall be had to any other dwelling occupied by the claimant or by him and his family whether or not that other dwelling is in Great Britain.

(3) Subject to sub-paragraph (4), where a single claimant or a lone parent is a [<sup>F5</sup>full-time student] or is on a training course and is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling which he occupies for the purpose of attending his course of study or his training course or, as the case may be, the dwelling which he occupies when not attending his course, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make payments.

(4) A full-time student shall not be treated as occupying a dwelling as his home for any week of absence from it, other than an absence occasioned by the need to enter hospital for treatment, outside the period of study, if the main purpose of his occupation during the period of study would be to facilitate attendance on his course.

(5) Where a claimant has been required to move into temporary accommodation by reason of essential repairs being carried out to the dwelling normally occupied as his home and he is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling normally occupied or the temporary accommodation, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make those payments.

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, he shall be treated as occupying both dwellings as his home only—

- (a) where he has left and remains absent from the former dwelling occupied as the home through fear of violence in that dwelling or by a former member of his family and it reasonable that housing costs should be met in respect of both his former dwelling and his present dwelling occupied as the home; or
- (b) in the case of a couple or a member of a polygamous marriage where a partner is a [<sup>F5</sup>full-time student] or is on a training course and it is unavoidable that he or they should occupy two separate dwellings and reasonable that housing costs should be met in respect of both dwellings; or
- (c) in the case where a person has moved into a new dwelling occupied as the home, except where sub-paragraph (5) applies, for a period not exceeding four benefit weeks if his liability to make payments in respect of two dwellings is unavoidable.

(7) Where—

- (a) a person has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in; and
- (b) he had claimed income support before moving in and either that claim has not yet been determined or it has been determined but an amount has not been included under this Schedule and if the claim has been refused a further claim has been made within four weeks of the date on which the claimant moved into the new dwelling occupied as the home; and
- (c) the delay in moving into the dwelling in respect of which there was liability to make payments before moving in was reasonable and—
  - (i) that delay was necessary in order to adapt the dwelling to meet the disablement needs of the claimant or any member of his family; or
  - (ii) the move was delayed pending the outcome of an application under Part VIII of the Contributions and Benefits Act for a social fund payment to meet a need arising out

**Status:** Point in time view as at 09/04/2001.

**Changes to legislation:** There are currently no known outstanding effects for the *The Income Support (General) Regulations 1987, SCHEDULE 3*. (See end of Document for details)

of the move or in connection with setting up the home in the dwelling and either a member of the claimant's family is aged five or under or the claimant's applicable amount includes a premium under paragraph 9, 9A, 10, 11, 13 or 14 of Schedule 2; or

(iii) the person became liable to make payments in respect of the dwelling while he was a patient or was in residential accommodation,

he shall be treated as occupying the dwelling as his home for any period not exceeding four weeks immediately prior to the date on which he moved into the dwelling and in respect of which he was liable to make payments.

(8) This sub-paragraph applies to a person who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits his needs; and
- (b) with the intention of returning to the dwelling which he normally occupies as his home should, in the event, the residential accommodation prove not to suit his needs,

and while in the accommodation, the part of the dwelling which he normally occupies as his home is not let, or as the case may be, sub-let to another person.

(9) A person to whom sub-paragraph (8) applies shall be treated as occupying the dwelling he normally occupies as his home during any period (commencing with the day he enters the accommodation) not exceeding 13 weeks in which the person is resident in the accommodation, but only in so far as the total absence from the dwelling does not exceed 52 weeks.

(10) A person, other than a person to whom sub-paragraph (11) applies, shall be treated as occupying a dwelling as his home throughout any period of absence not exceeding 13 weeks, if, and only if—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(11) This sub-paragraph applies to a person whose absence from the dwelling he normally occupies as his home is temporary and—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) while the part of the dwelling which is normally occupied by him has not been let or, as the case may be, sub-let; and
- (c) he is—
  - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a hostel approved under section 27(1) of the Probation Service Act 1993, or, as the case may be, detained pending sentence upon conviction, or
  - (ii) resident in a hospital or similar institution as a patient, or
  - (iii) undergoing or, as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation, or
  - (iv) following, in the United Kingdom or elsewhere, a training course, or
  - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere, or
  - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment, or

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- (vii) a person who is, whether in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation, or
  - (viii) a [<sup>F6</sup>full-time student] to whom sub-paragraph (3) or (6)(b) does not apply, or
  - (ix) a person other than a person to whom sub-paragraph (8) applies, who is receiving care provided in residential accommodation; or
  - (x) a person to whom sub-paragraph (6)(a) does not apply and who has left the dwelling he occupies as his home through fear of violence in that dwelling<sup>F7</sup>, or by a person] who was formerly a member of his family; and
- (d) the period of his absence is unlikely to exceed a period of 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (12) A person to whom sub-paragraph (11) applies is to be treated as occupying the dwelling he normally occupies as his home during any period of absence not exceeding 52 weeks beginning with the first day of that absence.
- (13) In this paragraph—
- (a) “medically approved” means certified by a medical practitioner;
  - (b) “patient” means a person who is undergoing medical or other treatment as an inpatient in a hospital or similar institution; “residential accommodation” means accommodation—
    - (i) provided under sections 21 to 24 and 26 of the National Assistance Act 1948 (provision of accommodation); or
    - (ii) provided under sections 13B and 59 of the Social Work (Scotland) Act 1968 (provision of residential and other establishments) where board is available to the claimant; or
    - (iii) which is a residential care home within the meaning of that expression in regulation 19(3) (persons in residential care or nursing homes) other than sub-paragraph (b) of that definition; or
    - (iv) which is a nursing home;
  - (d) “training course” means such a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

#### Textual Amendments

- F5** Words in Sch. 3 para. 3(3), (6)(b) substituted (31.7.2000) by [The Social Security Amendment \(Students\) Regulations 2000 \(S.I. 2000/1981\)](#), regs. 1(1), 5(5), **Sch.**
- F6** Words in Sch. 3 para. 3(11)(c)(viii) substituted (31.7.2000) by [The Social Security Amendment \(Students\) Regulations 2000 \(S.I. 2000/1981\)](#), regs. 1(1), 5(5), **Sch.**
- F7** Words in Sch. 3 para. 3(11) substituted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), **5(3)**

#### Housing costs not met

- 4.—(1) No amount may be met under the provisions of this Schedule—
- (a) in respect of housing benefit expenditure; or
  - (b) where the claimant is in accommodation which is a residential care home or a nursing home except where he is in such accommodation during a temporary absence from the

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dwelling he occupies as his home and in so far as they relate to temporary absences, the provisions of paragraph 3(8) to (12) apply to him during that absence.

(2) Subject to the following provisions of this paragraph, loans which, apart from this paragraph, qualify under paragraph 15 shall not so qualify where the loan was incurred during one relevant period and was incurred—

- (a) after 1st October 1995, or
- (b) after 2nd May 1994 and the housing costs applicable to that loan were not met by virtue of the former paragraph 5A of this Schedule in any one or more of the 26 weeks preceding 2nd October 1995, or
- (c) subject to sub-paragraph (3), in the 26 weeks preceding 2nd October 1995 by a person—
  - (i) who was not at that time entitled to income support; and
  - (ii) who becomes, or whose partner becomes entitled to income support after 1st October 1995 and that entitlement is within 26 weeks of an earlier entitlement to income support for the claimant or his partner.

(3) Sub-paragraph (2)(c) shall not apply in respect of a loan where the claimant has interest payments on that loan met without restrictions under an award of income support in respect of a period commencing before 2nd October 1995.

[<sup>F8</sup>(4) The “relevant period” for the purposes of this paragraph is any period during which the person to whom the loan was made —

- (a) is entitled to income support, or
- (b) is living as a member of a family one of whom is entitled to income support,

together with any linked period, that is to say a period falling between two such periods of entitlement to income support separated by not more than 26 weeks.]

[<sup>F9</sup>(4A) For the purposes of sub-paragraph (4), a person shall be treated as entitled to income support during any period when he or his partner was not so entitled because—

- (a) that person or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996<sup>[F10]</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or in the Intensive Activity Period for 50 plus]; and
- (b) in consequence of such participation that person or his partner was engaged in remunerative work or had an income in excess of the claimant’s applicable amount as prescribed in Part IV.]

(5) For the purposes of sub-paragraph (4)—

- (a) any week in the period of 26 weeks ending on 1st October 1995 on which there arose an entitlement to income support such as is mentioned in that sub-paragraph shall be taken into account in determining when the relevant period commences; and
- (b) two or more periods of entitlement and any intervening linked periods shall together form a single relevant period.

(6) Where the loan to which sub-paragraph (2) refers has been applied—

- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 15 [<sup>F11</sup>during the relevant period]; or

[<sup>F12</sup>(b) to finance the purchase of a property where an earlier loan, which qualified under paragraph 15 or 16 during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property;]

then the amount of the loan to which sub-paragraph (2) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(7) Notwithstanding the preceding provisions of this paragraph, housing costs shall be met in any case where a claimant satisfies any of the conditions specified in sub-paragraphs (8) to (11) below, but—

- (a) those costs shall be subject to any additional limitations imposed by the sub-paragraph; and
- (b) where the claimant satisfies the conditions in more than one of these sub-paragraphs, only one sub-paragraph shall apply in his case and the one that applies shall be the one most favourable to him.

(8) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies or continues to occupy, as his home; and
- (b) in the week preceding the week in which the relevant interest was acquired, housing benefit was payable to the claimant or a member of his family;

so however that the amount to be met by way of <sup>F13</sup>... housing costs shall initially not exceed the aggregate of—

- (i) the housing benefit payable in the week mentioned at sub-paragraph (8)(b); and
- (ii) any amount included in the applicable amount of the claimant or a member of his family in accordance with regulation 17(1)(e) or 18(1)(f) in that week;

and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of the acquisition, in the standard rate or in any housing costs which qualify under paragraph 17 (other housing costs).

(9) The condition specified in this sub-paragraph is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more suited to the special needs of a disabled person than the accommodation which was occupied before the acquisition by the claimant.

(10) The conditions specified in this sub-paragraph are that—

- (a) the loan commitment increased in consequence of the disposal of the dwelling occupied as the home and the acquisition of an alternative such dwelling; and
- (b) the change of dwelling was made solely by reason of the need to provide separate sleeping accommodation for children of different sexes aged 10 or over who belong to the same family as the claimant.

(11) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies as his home; and
- (b) in the week preceding the week in which the relevant interest was acquired, the applicable amount of the claimant or a member of his family included an amount determined by reference to paragraph 17 and did not include any amount specified in paragraph 15 or paragraph 16; so however that the amount to be met [<sup>F14</sup>by way of housing costs] shall initially not exceed the amount so determined, and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of acquisition, in the standard rate or in any housing costs which qualify under paragraph 17 (other housing costs).

(12) The following provisions of this Schedule shall have effect subject to the provisions of this paragraph.

*Status: Point in time view as at 09/04/2001.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3. (See end of Document for details)*

### Textual Amendments

- F8** Sch. 3 para. 4(4) substituted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), **5(4)(a)**
- F9** Sch. 3 para. 4(4A) inserted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **16(2)**
- F10** Words in Sch. 3 para. 4(4A)(a) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **14(a)**
- F11** Words in Sch. 3 para. 4(6)(a) inserted (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(10)(a)(i)** (with reg. 13)
- F12** Sch. 3 para. 4(6)(b) 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(10)(a)(ii)** (with reg. 13)
- F13** Word in Sch. 3 para. 4(8) omitted (12.12.1995) by virtue of [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), **regs. 1(1), 5(4)(b)**
- F14** Words in Sch. 3 para. 4(11) substituted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), **regs. 1(1), 5(4)(c)**

### Apportionment of housing costs

- 5.—(1) Where the dwelling occupied as the home is a composite hereditament and—
- before 1st April 1990 for the purposes of section 48(5) of the General Rate Act 1967 (reduction of rates on dwellings), it appeared to a rating authority or it was determined in pursuance of subsection (6) of section 48 of that Act that the hereditament, including the dwelling occupied as the home, was a mixed hereditament and that only a proportion of the rateable value of the hereditament was attributable to use for the purpose of a private dwelling; or
  - in Scotland, before 1st April 1989 an assessor acting pursuant to section 45(1) of the Water (Scotland) Act 1980 (provision as to valuation roll) has apportioned the net annual value of the premises including the dwelling occupied as the home between the part occupied as a dwelling and the remainder,

the amounts applicable under this Schedule shall be such proportion of the amounts applicable in respect of the hereditament or premises as a whole as is equal to the proportion of the rateable value of the hereditament attributable to the part of the hereditament used for the purposes of a private tenancy or, in Scotland, the proportion of the net annual value of the premises apportioned to the part occupied as a dwelling house.

(2) Subject to sub-paragraph (1) and the following provisions of this paragraph, where the dwelling occupied as the home is a composite hereditament, the amount applicable under this Schedule shall be the relevant fraction of the amount which would otherwise be applicable under this Schedule in respect of the dwelling occupied as the home.

(3) For the purposes of sub-paragraph (2), the relevant fraction shall be obtained in accordance with the formula—

$$AA+B$$

where— “A” is the current market value of the claimant’s interest in that part of the composite hereditament which is domestic property within the meaning of section 66 of the Act of 1988;

“B” is the current market value of the claimant’s interest in that part of the composite hereditament which is not domestic property within that section.



- (4) In this paragraph—  
“composite hereditament” means—
- (a) as respects England and Wales, any hereditament which is shown as a composite hereditament in a local non-domestic rating list;
  - (b) as respects Scotland, any lands and heritages entered in the valuation roll which are part residential subjects within the meaning of section 26(1) of the Act of 1987;
- “local non-domestic rating list” means a list compiled and maintained under section 41(1) of the Act of 1988;
- “the Act of 1987” means the Abolition of Domestic Rates Etc.(Scotland) Act 1987;
- “the Act of 1988” means the Local Government Finance Act 1988.

(5) Where responsibility for expenditure which relates to housing costs met under this Schedule is shared, the amounts applicable shall be calculated by reference to the appropriate proportion of that expenditure for which the claimant is responsible.

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

- C1 [Sch. 3 para. 5\(3\)](#) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), 16(9), [Sch. 6](#)

**Existing housing costs**

6.—(1) Subject to the provisions of this Schedule, the existing housing costs to be met in any particular case are—

- (a) where the claimant has been <sup>[F15]</sup>entitled to] income support for a continuous period of 26 weeks or more, the aggregate of—
  - (i) an amount determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 15 or 16; and
  - (ii) an amount equal to any payments which qualify under paragraph 17(1)(a) to (c);
- (b) where the claimant has been <sup>[F15]</sup>entitled to] income support for a continuous period of not less than 8 weeks but less than 26 weeks, an amount which is half the amount which would fall to be met by applying the provisions of sub-paragraph (a);
- (c) in any other case, nil.

<sup>[F16]</sup>(1A) For the purposes of sub-paragraph (1) <sup>[F17]</sup>and subject to sub-paragraph (1B)], the eligible capital for the time being owing shall be determined on the date the existing housing costs are first met and thereafter on each anniversary of that date.]

<sup>[F18]</sup>(1B) Where a claimant or his partner ceases to be in receipt of or treated as being in receipt of income-based jobseeker’s allowance and one of them becomes entitled to income support in a case to which paragraph 1A applies, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or his partner was first entitled.]

(2) Where immediately before 2nd October 1995 a claimant’s applicable amount included a sum by way of housing costs in accordance with regulation 17(1)(e) or 18(1)(f), but the claimant had not on that date been entitled to income support for a continuous period of 26 weeks or more, the amount of the housing costs to be met in his case shall, for the balance of the 26 weeks falling after 1st October 1995, be determined in accordance with sub-paragraph (3).

**Status:** Point in time view as at 09/04/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3. (See end of Document for details)

- (3) Subject to sub-paragraph (4), where the claimant had on 1st October 1995—
- (a) been entitled to income support for less than 16 consecutive weeks (including the benefit week in which 1st October 1995 falls), any housing costs to be met in his case shall remain at the amount they were before 2nd October 1995 until the end of the 16th consecutive week of that entitlement and shall thereafter be determined as if he had been entitled for a continuous period of 26 weeks;
  - (b) been entitled for 16 consecutive weeks or more but less than 26 consecutive weeks (including the benefit week in which 1st October 1995 falls), any housing costs to be met in his case shall be determined as if he had been entitled for 26 weeks.
- (4) Sub-paragraph (3) above shall apply in a particular case only for so long as the agreement in respect of which a sum by way of housing costs falls to be met immediately before 2nd October 1995 in accordance with regulation 17(1)(e) or 18(1)(f) remains in force.

#### Textual Amendments

- F15** Words in Sch. 3 para. 6(1) substituted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), **regs. 1(1), 5(5)(a)**
- F16** Sch. 3 para. 6(1A) inserted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), **regs. 1(1), 5(5)(b)**
- F17** Words in Sch. 3 para. 6(1A) inserted (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), **regs. 1, 2(2)(b)**
- F18** Sch. 3 para. 6(1B) inserted (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), **regs. 1, 2(2)(c)**

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

- C2** Sch. 3 para. 6(1)(b) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), **arts. 1(2)(g), 16(9), Sch. 6**
- C3** Sch. 3 para. 6(1)(c) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), **arts. 1(2)(g), 16(9), Sch. 6**

#### Transitional Protection

7.—(1) Where the amount applicable to a claimant by way of housing costs under regulation 17(1)(e) or regulation 18(1)(f) (as the case may be) in the benefit week which includes 1st October 1995 (“the first benefit week”) is greater than the amount which, in accordance with paragraphs 6 and 10, is applicable in his case in the next succeeding benefit week (“the second benefit week”), the claimant shall be entitled to have his existing housing costs increased by an amount (referred to in this paragraph as “add back”) determined in accordance with the following provisions of this paragraph.

(2) Where the amount to be met by way of housing costs in the first benefit week is greater than the amount to be met in the second benefit week, then the amount of the add back shall be a sum representing the difference between those amounts.

(3) Where the amount of existing housing costs, disregarding the add back, which is applicable to the claimant increases after the second benefit week, the amount of the add back shall be decreased by an amount equal to that increase, and the amount of the add back shall thereafter be the decreased amount.

(4) Any increase in the amount of the existing housing costs, disregarding the add back, shall reduce the amount of the add back in the manner specified in sub-paragraph (3), and where the

amount of the add back is reduced to nil, the amount of the existing housing costs shall thereafter not include any amount by way of add back.

- (5) Where a person or his partner—
- (a) was entitled to income support; and
  - (b) had an applicable amount which included an amount by way of add back in accordance with this paragraph; and
  - (c) ceased to be entitled to income support for a continuous period in excess of 12 weeks,

then, on the person or his partner again becoming entitled to income support, the applicable amount of the claimant shall be determined without reference to the provisions relating to add back in sub-paragraphs (1) to (4).

(6) Where a person whose applicable amount included an amount by way of add back under this paragraph loses the right to have an amount by way of housing costs included in his applicable amount, then where that person's applicable amount again includes an amount by way of housing costs, that amount shall be determined without reference to the provisions relating to add back in sub-paragraphs (1) to (4).

(7) Where the partner of a person to whom sub-paragraph (6) applies becomes entitled to income support and—

- (a) his applicable amount includes an amount by way of existing housing costs, and
- (b) those housing costs are in respect of payments which were formerly met in the applicable amount of the person to whom sub-paragraph (6) applies

then the provisions of this paragraph shall apply to the partner as they would if he had been responsible for the housing costs immediately before 2nd October 1995 [<sup>F19</sup>provided the claim is made not more than 12 weeks after the last day of entitlement to housing costs relating to a claim made by the person to whom sub-paragraph (6) applies].

(8) Where in the first benefit week, a claimant's applicable amount included an amount by way of housing costs which was calculated by reference to paragraph 7(1)(b)(ii) of Schedule 3 as then in force (50 per cent. of eligible interest met) then for the purposes of this paragraph, the amount of the add back shall be determined by reference to the amount which would have been applicable on that day if 100 per cent. of the claimant's eligible interest had been met, but only from the benefit week following the final benefit week in which paragraph 7(1)(b)(ii) of Schedule 3 would, had it remained in force, have applied in the claimant's case.

(9) Where the existing housing costs of the claimant are determined by reference to two or more loans which qualify under this Schedule, then the provisions of this paragraph shall be applied separately to each of those loans and the amount of the add back (if any) shall be determined in respect of each loan.

[<sup>F20</sup>(10) In the case of a person who is a welfare to work beneficiary, the references in sub-paragraphs (5)(c) and (7) to a period of 12 weeks shall be treated as references to a period of 52 weeks.]

#### Textual Amendments

- F19** Words in [Sch. 3 para. 7\(7\)](#) inserted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), **5(6)**
- F20** [Sch. 3 para. 7\(10\)](#) added (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **13(4)(a)**

**Status:** Point in time view as at 09/04/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3. (See end of Document for details)

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

- C4** Sch. 3 para. 7(8) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), 16(9), Sch. 6

**New housing costs**

**8.—(1)** Subject to the provisions of this Schedule, the new housing costs to be met in any particular case are—

- (a) where the claimant has been [<sup>F21</sup>entitled to] income support for a continuous period of 39 weeks or more, an amount—
- (i) determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 15 or 16; and
- (ii) equal to any payments which qualify under paragraph 17(1)(a) to (c);
- (b) in any other case, nil.

[<sup>F22</sup>(1A) For the purposes of sub-paragraph (1) [<sup>F23</sup>and subject to sub-paragraph (1B),] the eligible capital for the time being owing shall be determined on the date the new housing costs are first met and thereafter on each anniversary of that date.]

[<sup>F24</sup>(1B) Where a claimant or his partner ceases to be in receipt of or treated as being in receipt of income-based jobseeker's allowance and one of them becomes entitled to income support in a case to which paragraph 1A applies, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or his partner was first entitled.]

(2) This sub-paragraph applies to a claimant who at the time the claim is made—

- [<sup>F25</sup>(a) is a person to whom paragraph 4 or 5 of Schedule 1B (persons caring for another person) applies;]
- (b) is detained in custody pending trial or sentence upon conviction; or
- (c) has been refused payments under a policy of insurance on the ground that
- (i) the claim under the policy is the outcome of a pre-existing medical condition which, under the terms of the policy, does not give rise to any payment by the insurer; or
- (ii) he was infected by the Human Immunodeficiency Virus,
- and the policy was taken out to insure against the risk of being unable to maintain repayments on a loan which is secured by a mortgage or a charge over land, or (in Scotland) by a heritable security.

(3) This sub-paragraph applies subject to sub-paragraph (5) where a person claims income support because of—

- (a) the death of a partner; or
- (b) being abandoned by his partner,

and where the person's family includes a child.

(4) In the case of a claimant to whom sub-paragraph (2) or (3) applies, any new housing costs shall be met as though they were existing housing costs and paragraph 6 applied to them.

(5) Sub-paragraph (3) shall cease to apply to a person who subsequently becomes one of a couple.

### Textual Amendments

- F21** Words in Sch. 3 para. 8(1) substituted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(7)(a)**
- F22** Sch. 3 para. 8(1A) inserted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(7)(b)**
- F23** Words in Sch. 3 para. 8(1A) inserted (22.10.1997) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 1997 (S.I. 1997/2305), regs. 1, **2(2)(d)**
- F24** Sch. 3 para. 8(1B) inserted (22.10.1997) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 1997 (S.I. 1997/2305), regs. 1, **2(2)(e)**
- F25** Sch. 3 para. 8(2)(a) 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), 24(2)**

### Modifications etc. (not altering text)

- C5** Sch. 3 para. 8(1)(b) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), 16(9), **Sch. 6**

### General exclusions from paragraphs 6 and 8

- 9.**—(1) Paragraphs 6 and 8 shall not apply where—
- (a) the claimant or his partner is aged 60 or over;
  - (b) the housing costs are payments—
    - (i) under a co-ownership agreement;
    - (ii) under or relating to a tenancy or licence of a Crown tenant; or
    - (iii) where the dwelling occupied as the home is a tent, in respect of the tent and the site on which it stands.
- (2) In a case falling within sub-paragraph (1), the housing costs to be met are—
- (a) where head (a) of sub-paragraph (1) applies, an amount—
    - (i) determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 15 or 16; and
    - (ii) equal to the payments which qualify under paragraph 17;
  - (b) where head (b) of sub-paragraph (1) applies, an amount equal to the payments which qualify under paragraph 17(1)(d) to (f).

### The calculation for loans

**10.**—(1) The weekly amount of existing housing costs or, as the case may be, new housing costs to be met under this Schedule in respect of a loan which qualifies under paragraph 15 or 16 shall be calculated by applying the formula:—

$$(A \times B) \times C52$$

where—A = the amount of the loan which qualifies under paragraph 15 or 16;

B = the standard rate for the time being specified in respect of that loan under paragraph 12;

C = the difference between 100 per cent. and the applicable percentage of income tax within the meaning of section 369(1A) of the Income and Corporation Taxes Act 1988 (mortgage interest

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payable under deduction of tax) for the year of assessment in which the payment of interest becomes due.

(2) Where section 369 of the Income and Corporation Taxes Act 1988 does not apply to the interest on a loan or a part of a loan, the formula applied in sub-paragraph (1) shall have effect as if C had a value of 1.

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

**C6** Sch. 3 para. 10(1) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), 16(9), Sch. 6

**General provisions applying to new and existing housing costs**

**11.**—<sup>F26</sup>(1) . . . . .

(2) Where on or after 2nd October 1995 a person enters into a new agreement in respect of a dwelling and an agreement entered into before 2nd October 1995 (“the earlier agreement”) continues in force independently of the new agreement, then—

- (a) the housing costs applicable to the new agreement shall be calculated by reference to the provisions of paragraph 8 (new housing costs);
- (b) the housing costs applicable to the earlier agreement shall be calculated by reference to the provisions of paragraph 6 (existing housing costs);

and the resulting amounts shall be aggregated.

(3) [<sup>F27</sup>Sub-paragraph (2) does] not apply in the case of a claimant to whom paragraph 9 applies.

(4) Where for the time being a loan exceeds, or in a case where more than one loan is to be taken into account, the aggregate of those loans exceeds the appropriate amount specified in sub-paragraph (5), then the amount of the loan or, as the case may be, the aggregate amount of those loans, shall for the purposes of this Schedule, be the appropriate amount.

(5) Subject to the following provisions of this paragraph, the appropriate amount is £100,000.

(6) Where a person is treated under paragraph 3(6) (payments in respect of two dwellings) occupying two dwellings as his home, then the restrictions imposed by sub-paragraph (4) shall be applied separately to the loans for each dwelling.

(7) In a case to which paragraph 5 (apportionment of housing costs) applies, the appropriate amount for the purposes of sub-paragraph (4) shall be the lower of—

- (a) a sum determined by applying the formula—

$$P \times Q,$$

where—P = the relevant fraction for the purposes of paragraph 5, and

Q = the amount or, as the case may be, the aggregate amount for the time being of any loan or loans which qualify under this Schedule; or

- (b) the sum for the time being specified in sub-paragraph (5).

(8) In a case to which paragraph 15(3) or 16(3) (loans which qualify in part only) applies, the appropriate amount for the purposes of sub-paragraph (4) shall be the lower of—

- (a) a sum representing for the time being the part of the loan applied for the purposes specified in paragraph 15(1) or (as the case may be) paragraph 16(1); or
- (b) the sum for the time being specified in sub-paragraph (5).

(9) In the case of any loan to which paragraph 16(2)(k) (loan taken out and used for the purpose of adapting a dwelling for the special needs of a disabled person) applies the whole of the loan, to the extent that it remains unpaid, shall be disregarded in determining whether the amount for the time being specified in sub-paragraph (5) is exceeded.

[<sup>F28</sup>(10) Where in any case the amount for the time being specified for the purposes of sub-paragraph (5) is exceeded and there are two or more loans to be taken into account under either or both paragraphs 15 and 16, then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding shall be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.]

[<sup>F28</sup>(11) For the purposes of sub-paragraph (10), the qualifying portion of a loan shall be determined by applying the following formula—

where—

- R = the amount for the time being specified for the purposes of sub-paragraph (4);  
S = the amount of the outstanding loan to be taken into account;  
T = the aggregate of all outstanding loans to be taken into account under paragraphs 15 and 16.]

#### Textual Amendments

- F26** Sch. 3 para. 11(1) omitted (12.12.1995) by virtue of [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), **5(8)(a)**
- F27** Words in Sch. 3 para. 11(3) substituted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), **regs. 1(1), 5(8)(b)**
- F28** Sch. 3 para. 11(10)(11) inserted (12.12.1995) by [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), **5(8)(c)**

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

- C7** Sch. 3 para. 11(5) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), 16(9), **Sch. 6**
- C8** Sch. 3 para. 11(7)(a) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), 16(9), **Sch. 6**
- C9** Sch. 3 para. 11(11) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), 16(9), **Sch. 6**

#### The standard rate

**12.—**(1) The standard rate is the rate of interest applicable to a loan which qualifies under this Schedule and—

- (a) except where sub-paragraph (2) applies, is [<sup>F29</sup>7.44 per cent.] per annum; or  
(b) where sub-paragraph (2) applies, shall equal the actual rate of interest charged on the loan on the day the housing costs first fall to be met.

(2) This sub-paragraph applies where the actual rate of interest charged on the loan which qualifies under this Schedule is less than 5 per cent. per annum on the day the housing costs first fall to be met and ceases to apply when the actual rate of interest on that loan is 5 per cent. per annum or higher.

**Status:** Point in time view as at 09/04/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3. (See end of Document for details)

(3) Where in a case to which sub-paragraph (2) applies, the actual rate of interest on the loan rises to 5 per cent. per annum or higher, the standard rate applicable on that loan shall be determined in accordance with sub-paragraph (1)(a).

<sup>F30</sup>(4) .....

**Textual Amendments**

- F29** Words in [Sch. 3 para. 12\(1\)\(a\)](#) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Support \(General\) \(Standard Interest Rate Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/1402\)](#), regs. 1(1), **2**
- F30** [Sch. 3 para. 12\(4\)](#) omitted (12.12.1995) by virtue of [The Social Security \(Income Support, Claims and Payments and Adjudication\) Amendment Regulations 1995 \(S.I. 1995/2927\)](#), regs. 1(1), **5(9)**

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

- C10** [Sch. 3 para. 12\(1\)\(a\)](#) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), 16(9), **Sch. 6**
- C11** [Sch. 3 para. 12\(2\)\(3\)](#) sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(g), 16(9), **Sch. 6**

**Excessive Housing Costs**

**13.**—(1) Housing costs which, apart from this paragraph, fall to be met under this Schedule shall be met only to the extent specified in sub-paragraph (3) where—

- (a) the dwelling occupied as the home, excluding any part which is let, is larger than is required by the claimant and his family and any child or young person to whom regulation 16(4) applies (foster children) and any other non-dependants having regard, in particular, to suitable alternative accommodation occupied by a household of the same size; or
- (b) the immediate area in which the dwelling occupied as the home is located is more expensive than other areas in which suitable alternative accommodation exists; or
- (c) the outgoings of the dwelling occupied as the home which are met under paragraphs 5 to 17 are higher than the outgoings of suitable alternative accommodation in the area.

(2) For the purposes of heads (a) to (c) of sub-paragraph (1), no regard shall be had to the capital value of the dwelling occupied as the home.

(3) Subject to the following provisions of this paragraph, the amount of the loan which falls to be met shall be restricted and the excess over the amounts which the claimant would need to obtain suitable alternative accommodation shall not be allowed.

(4) Where, having regard to the relevant factors, it is not reasonable to expect the claimant and his family to seek alternative cheaper accommodation, no restriction shall be made under sub-paragraph (3).

(5) In sub-paragraph (4) “the relevant factors” are—

- (a) the availability of suitable accommodation and the level of housing costs in the area; and
- (b) the circumstances of the family including in particular the age and state of health of its members, the employment prospects of the claimant and, where a change in accommodation is likely to result in a change of school, the effect on the education of any child or young person who is a member of his family, or any child or young person who is not treated as part of his family by virtue of regulation 16(4) (foster children).



[<sup>F31</sup>(6) Where sub-paragraph (4) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the 26 weeks immediately following the date on which—

- (a) the claimant became entitled to income support where the claimant's housing costs fell within one of the cases in sub-paragraph (1) on that date; or
- (b) a decision took effect which was made under section 10 (decisions superseding earlier decisions) of the Social Security Act 1998 on the ground that the claimant's housing costs fell within one of the cases in sub-paragraph (1),

nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation.]

(7) For the purposes of calculating any period of 26 weeks referred to in sub-paragraph (6), and for those purposes only, a person shall be treated as entitled to income support for any period of 12 weeks or less in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which he was in receipt thereof.

(8) Any period in respect of which—

- (a) income support was paid to a person, and
- (b) it was subsequently determined <sup>F32</sup>... that he was not entitled to income support for that period,

shall be treated for the purposes of sub-paragraph (7) as a period in respect of which he was not in receipt of income support.

(9) Heads (c) to (f) of sub-paragraph (1) of paragraph 14 shall apply to sub-paragraph (7) as they apply to paragraphs 6 and 8 but with the modification that the words "Subject to sub-paragraph (2)" were omitted and references to "the claimant" were references to the person mentioned in sub-paragraph (7).

#### Textual Amendments

**F31** Sch. 3 para. 13(6) substituted (29.11.1999) by *The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178)*, reg. 3(1)(a), **Sch. 5 para. 9(a)(i)** (with reg. 3(1)(b), Schs. 21-23)

**F32** Words in Sch. 3 para. 13(8)(b) omitted (29.11.1999) by virtue of *The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178)*, reg. 3(1)(a), **Sch. 5 para. 9(a)(ii)** (with reg. 3(1)(b), Schs. 21-23)

#### Linking rule

**14.—(1)** Subject to sub-paragraph (2), for the purposes of this Schedule—

- (a) a person shall be treated as being in receipt of income support during the following periods—
  - (i) any period in respect of which it was subsequently [<sup>F33</sup>determined] that he was entitled to income support; and
  - (ii) any period of 12 weeks or less [<sup>F34</sup>or, as the case may be, 52 weeks or less.] in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which <sup>F35</sup>...;
- [<sup>F36</sup>(aa) he was, or was treated as being, in receipt of income support,

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- (bb) he was treated as entitled to income support for the purpose of sub-paragraph (5) or (5A), or
- (cc) (i) above applies;]
- (b) a person shall be treated as not being in receipt of income support during any period other than a period to which (a)(ii) above applies in respect of which it is subsequently [<sup>F37</sup>determined] that he was not so entitled;
- (c) where—
  - (i) the claimant was a member of a couple or a polygamous marriage; and
  - (ii) his partner was, in respect of a past period, in receipt of income support for himself and the claimant; and
  - (iii) the claimant is no longer a member of that couple or polygamous marriage; and
  - (iv) the claimant made his claim for income support within twelve weeks [<sup>F38</sup>or, as the case may be, 52 weeks,] of ceasing to be a member of that couple or polygamous marriage,

he shall be treated as having been in receipt of income support for the same period as his former partner had been or had been treated, for the purposes of this Schedule, as having been;
- (d) where the claimant's partner's applicable amount was determined in accordance with paragraph 1(1) (single claimant) or paragraph 1(2) (lone parent) of Schedule 2 applicable amounts) in respect of a past period, provided that the claim was made within twelve weeks [<sup>F39</sup>or, as the case may be, 52 weeks,] of the claimant and his partner becoming one of a couple or polygamous marriage, the claimant shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;
- (e) where the claimant is a member of a couple or a polygamous marriage and his partner was, in respect of a past period, in receipt of income support for himself and the claimant, and the claimant has begun to receive income support as a result of an election by the members of the couple or polygamous marriage, he shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;
- <sup>F40</sup>(ee) where the claimant—
  - (i) is a member of a couple or a polygamous marriage and the claimant's partner was, immediately before the participation by any member of that couple or polygamous marriage in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996<sup>F41</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or in the Intensive Activity Period for 50 plus], in receipt of income support and his applicable amount included an amount for the couple or for the partners of the polygamous marriage; and
  - (ii) has, immediately after that participation in that programme, begun to receive income support as a result of an election under regulation 4(3) of the Social Security (Claims and Payments) Regulations 1987 by the members of the couple or polygamous marriage,

the claimant shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;]
- (f) where—

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- (i) the claimant was a member of a family of a person (not being a former partner) entitled to income support and at least one other member of that family was a child or young person; and
- (ii) the claimant becomes a member of another family which includes that child or young person; and
- (iii) the claimant made his claim for income support within 12 weeks [<sup>F42</sup>or, as the case may be, 52 weeks,] of the date on which the person entitled to income support mentioned in (i) above ceased to be so entitled,

the claimant shall be treated as being in receipt of income support for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

(2) Where a claimant, with the care of a child, has ceased to be in receipt of income support in consequence of the payment of child support maintenance under the Child Support Act 1991 and immediately before ceasing to be so in receipt an amount determined in accordance with paragraph 6(1)(a)(i) or paragraph 8(1)(a)(i) was applicable to him, then—

- (a) if the child support maintenance assessment concerned is terminated or replaced <sup>F43</sup>... by a lower assessment in consequence of the coming into force on or after 18th April 1995 of regulations made under the Child Support Act 1991; or
- (b) where the child support maintenance assessment concerned is an interim maintenance assessment and, in circumstances other than those referred to in head (a), it is terminated or replaced after termination by another interim maintenance assessment or by a maintenance assessment made in accordance with Part I of Schedule 1 to the Child Support Act 1991, in either case of a lower amount than the assessment concerned,

sub-paragraph (1)(a)(ii) shall apply to him as if for the words “any period of 12 weeks or less” there were substituted the words “any period of 26 weeks or less”.

(3) For the purposes of this Schedule, 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 or attending a course at an employment rehabilitation centre established under that section, he shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in such arrangements or attending such a course.

<sup>F44</sup>(3ZA) For the purposes of this Schedule, a claimant who has ceased to be entitled to income support because—

- (a) that claimant or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996<sup>F45</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations, in the Intensive Activity Period for 50 plus<sup>F46</sup>or in an employment zone scheme]; and
- (b) in consequence of such participation the claimant or his partner was engaged in remunerative work or had an income in excess of the claimant’s applicable amount as prescribed in Part IV,

shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in that programme [<sup>F47</sup>or activity].]

<sup>F48</sup>(3A) Where, for the purposes of sub-paragraphs [<sup>F49</sup>(1), (3) and (3ZA)], a person is treated as being in receipt of income support, for a certain period, he shall<sup>F50</sup>, subject to sub-paragraph (3AA),] be treated as being entitled to income support for the same period.]

<sup>F51</sup>(3AA) Where the appropriate amount of a loan exceeds the amount specified in paragraph 11(5), sub-paragraph (3A) shall not apply except—

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- (a) for the purposes of paragraph 6(1) or 8(1); or
- (b) where a person has ceased to be in receipt of income support for a period of 52 weeks or less because he or his partner is a welfare to work beneficiary.]

[<sup>F52</sup>(3B) For the purposes of this Schedule, in determining whether a person is entitled to or to be treated as entitled to income support, entitlement to a contribution-based jobseeker's allowance immediately before a period during which that person or his partner is participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996[<sup>F53</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or in the Intensive Activity Period for 50 plus] shall be treated as entitlement to income support for the purposes of any requirement that a person is, or has been, entitled to income support for any period of time.]

(4) For the purposes of this Schedule, sub-paragraph (5) applies where a person is not entitled to income support by reason only that he has—

- (a) capital exceeding £8,000; or
- (b) income exceeding the applicable amount which applies in his case, or
- (c) both capital exceeding £8,000 and income exceeding the applicable amount which applies in his case.

(5) A person to whom sub-paragraph (4) applies shall be treated as entitled to income support throughout any period of not [<sup>F54</sup>more] than 39 weeks which comprises only days—

- (a) on which he is entitled to unemployment benefit, [<sup>F55</sup>a contribution-based jobseeker's allowance,] statutory sick pay or incapacity benefit; or
- (b) on which he is, although not entitled to any of the benefits mentioned in head (a) above, entitled to be credited with earnings equal to the lower earnings limit for the time being in force in accordance with [<sup>F56</sup>regulation 8A or 8B] of the Social Security (Credits) Regulations 1975; or
- (c) in respect of which the claimant is treated as being in receipt of income support.

[<sup>F57</sup>(5A) Subject to sub-paragraph (5B), a person to whom sub-paragraph (4) applies and who is either a person to whom [<sup>F58</sup>paragraph 4 or 5 of Schedule 1B (persons caring for another person) applies] or a lone parent shall, for the purposes of this Schedule, be treated as entitled to income support throughout any period of not more than 39 weeks following the refusal of a claim for income support made by or on behalf of that person.]

[<sup>F57</sup>(5B) Sub-paragraph (5A) shall not apply in relation to a person mentioned in that sub-paragraph who, during the period referred to in that sub-paragraph—

- (a) is engaged in, or is treated as engaged in, remunerative work or whose partner is engaged in, or is treated as engaged in, remunerative work;
  - [<sup>F59</sup>(b) is a [<sup>F60</sup>full-time student], other than one who would qualify for income support under regulation 4ZA(3) (prescribed categories of person);]
  - (c) is temporarily absent from Great Britain, other than in the circumstances specified in regulation 4(2) and (3) (temporary absence from Great Britain).]
- (6) In a case where—
- (a) [<sup>F61</sup>sub-paragraphs (5) and (5A) apply] solely by virtue of sub-paragraph (4)(b); and
  - (b) the claimant's income includes payments under a policy taken out to insure against the risk that the policy holder is unable to meet any loan or payment which qualifies under paragraphs 15 to 17,

[<sup>F62</sup>sub-paragraphs (5) and (5A)] shall have effect as if for the words “throughout any period of not [<sup>F63</sup>more] than 39 weeks” there shall be substituted the words “throughout any period that payments are made in accordance with the terms of the policy”.

<sup>F64</sup>(7) .....

(8) This sub-paragraph applies—

- (a) to a person who claims income support, or in respect of whom income support is claimed, and who—
  - (i) received payments under a policy of insurance taken out to insure against loss of employment, and those payments are exhausted; and
  - (ii) had a previous award of income support where the applicable amount included an amount by way of housing costs; and
- (b) where the period in respect of which the previous award of income support was payable ended not more than 26 weeks before the date the claim was made.

(9) Where sub-paragraph (8) applies, in determining—

- (a) for the purposes of paragraph 6(1) whether a person has been [<sup>F65</sup>entitled to] income support for a continuous period of 26 weeks or more; or
- (b) for the purposes of paragraph 8(1) whether a claimant has been [<sup>F65</sup>entitled to] income support for a continuous period of 39 weeks or more,

any week falling between the date of the termination of the previous award and the date of the new claim shall be ignored.

[<sup>F66</sup>(10) In the case of a person who is a welfare to work beneficiary, the references in sub-paragraphs (1)(a)(ii), [<sup>F67</sup>(1)(c)(iv),] (1)(d) and (1)(f)(iii) to a period of 12 weeks shall be treated as references to a period of 52 weeks.]

[<sup>F68</sup>(11) For the purposes of sub-paragraph (1)(a)(ii), (1)(c)(iv), (1)(d) and (1)(f)(iii), the relevant period shall be—

- (a) 52 weeks in the case of a person to whom sub-paragraph (12) applies;
- (b) subject to sub-paragraph (10), 12 weeks in any other case.

(12) This sub-paragraph applies, subject to sub-paragraph (13), in the case of a person who, on or after 9th April 2001, has ceased to be entitled to income support because he or his partner—

- (a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which he is engaged in such employment;
- (b) is taking active steps to establish himself in employment as an employed earner or as a self-employed earner under any scheme for assisting persons to become so employed which is mentioned in regulation 19(1)(r)(i) to (iii) of the Jobseeker’s Allowance Regulations 1996; or
- (c) is participating in—
  - (i) a New Deal option;
  - (ii) an employment zone programme; or
  - (iii) the self-employment route; [<sup>F69</sup>or
  - (iv) the Intensive Activity Period specified in regulation 75(1)(a)(iv) of the Jobseeker’s Allowance Regulations 1996 or the Intensive Activity Period for 50 plus,]

and, as a consequence, he or his partner was engaged in remunerative work or had income in excess of the applicable amount as prescribed in Part IV.

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(13) Sub-paragraph (12) shall only apply to the extent that immediately before the day on which the person ceased to be entitled to income support, his housing costs were being met in accordance with paragraph 6(1)(a) or 8(1)(a) or would have been so met but for any non-dependant deduction under paragraph 18.]

### Textual Amendments

- F33** Words in Sch. 3 para. 14(1)(a)(i) substituted (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 5 para. 9(b)(i)** (with reg. 3(1)(b), Schs. 21-23)
- F34** Words in Sch. 3 para. 14(1)(a)(ii) inserted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **6(a)(i)**
- F35** Words in Sch. 3 para. 14(1)(a)(ii) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of The Income-related Benefits Schemes and Social Fund (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1944), regs. 1(1)(a), **6(10)(b)** (with reg. 13)
- F36** Sch. 3 para. 14(1)(aa)(bb)(cc) inserted (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(10)(b)** (with reg. 13)
- F37** Words in Sch. 3 para. 14(1)(b) substituted (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 5 para. 9(b)(ii)** (with reg. 3(1)(b), Schs. 21-23)
- F38** Words in Sch. 3 para. 14(1)(c)(iv) inserted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **6(a)(ii)**
- F39** Words in Sch. 3 para. 14(1)(d) inserted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **6(a)(iii)**
- F40** Sch. 3 para. 14(1)(ee) inserted (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **16(3)(a)**
- F41** Words in Sch. 3 para. 14(1)(ee)(i) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **14(b)(i)**
- F42** Words in Sch. 3 para. 14(1)(f)(iii) inserted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **6(a)(iv)**
- F43** Words in Sch. 3 para. 14(2)(a) omitted (29.11.1999) by virtue of The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 5 para. 9(b)(iii)** (with reg. 3(1)(b), Schs. 21-23)
- F44** Sch. 3 para. 14(3ZA) inserted (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **16(3)(b)**
- F45** Words in Sch. 3 para. 14(3ZA)(a) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **14(b)(ii)(aa)**
- F46** Words in Sch. 3 para. 14(3ZA)(a) inserted (3.4.2000) by The Social Security Amendment (Employment Zones) Regulations 2000 (S.I. 2000/724), regs. 1(1), **4(3)(c)**
- F47** Words in Sch. 3 para. 14(3ZA) added (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **14(b)(ii)(bb)**
- F48** Sch. 3 para. 14(3A) inserted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), **regs. 1(1), 5(10)(a)**
- F49** Words in Sch. 3 para. 14(3A) substituted (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **16(3)(c)**
- F50** Words in Sch. 3 para. 14(3A) inserted (2.8.1999) by The Income Support (General) and Jobseeker's Allowance Amendment Regulations 1999 (S.I. 1999/1921), regs. 1, **2(1)(a)**
- F51** Sch. 3 para. 14(3AA) inserted (2.8.1999) by The Income Support (General) and Jobseeker's Allowance Amendment Regulations 1999 (S.I. 1999/1921), regs. 1, **2(1)(b)**
- F52** Sch. 3 para. 14(3B) inserted (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **16(3)(d)**

- F53** Words in Sch. 3 para. 14(3B) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **14(b)(iii)**
- F54** Word in Sch. 3 para. 14(5) substituted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), **regs. 1(1), 5(10)(b)**
- F55** Words in Sch. 3 para. 14(5)(a) 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), **24(3)(a)**
- F56** Words in Sch. 3 para. 14(5)(b) substituted (5.4.1999) by The Social Security Benefits (Miscellaneous Amendments) Regulations 1999 (S.I. 1999/714), regs. 1(2)(a), **3**
- F57** Sch. 3 para. 14(5A)(5B) inserted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), **regs. 1(1), 5(10)(c)**
- F58** Words in Sch. 3 para. 14(5A) 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), **24(3)(b)**
- F59** Sch. 3 para. 14(5B)(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), **24(3)(c)**
- F60** Words in Sch. 3 para. 14(5B)(b) substituted (31.7.2000) by The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), regs. 1(1), 5(5), **Sch.**
- F61** Words in Sch. 3 para. 14(6) substituted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(10)(d)(i)**
- F62** Words in Sch. 3 para. 14(6) substituted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(10)(d)(ii)**
- F63** Word in Sch. 3 para. 14(6) substituted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(10)(d)(iii)**
- F64** Sch. 3 para. 14(7) omitted (12.12.1995) by virtue of The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(10)(e)**
- F65** Words in Sch. 3 para. 14(9) substituted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(10)(f)**
- F66** Sch. 3 para. 14(10) added (5.10.1998) by The Social Security (Welfare to Work) Regulations 1998 (S.I. 1998/2231), regs. 1, **13(4)(b)**
- F67** Words in Sch. 3 para. 14(10) inserted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **6(b)**
- F68** Sch. 3 para. 14(11)(12)(13) added (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **6(c)**
- F69** Sch. 3 para. 14(12)(c)(iv) and word added (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(2), **14(b)(iv)**

### **Loans on residential property**

**15.—(1)** A loan qualifies under this paragraph where the loan was taken out to defray monies applied for any of the following purposes—

- (a) acquiring an interest in the dwelling occupied as the home; or
- (b) paying off another loan to the extent that the other loan would have qualified under head (a) above had the loan not been paid off.

(2) For the purposes of this paragraph, references to a loan include also a reference to money borrowed under a hire purchase agreement for any purpose specified in heads (a) and (b) of subparagraph (1) above.

*Status: Point in time view as at 09/04/2001.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3. (See end of Document for details)*

(3) Where a loan is applied only in part for the purposes specified in heads (a) and (b) of sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

### **Loans for repairs and improvements to the dwelling occupied as the home**

**16.**—(1) A loan qualifies under this paragraph where the loan was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the dwelling occupied as the home;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the dwelling occupied as the home;
- (c) paying off another loan to the extent that the other loan would have qualified under head (a) or (b) of this sub-paragraph had the loan not been paid off,

and the loan was used for that purpose, or is used for that purpose within 6 months of the date of receipt or such further period as may be reasonable in the particular circumstances of the case.

(2) In sub-paragraph (1) “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling—

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating systems;
- (c) damp proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting a dwelling for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for children of different sexes aged 10 or over who are part of the same family as the claimant.

(3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

### **Other housing costs**

**17.**—(1) Subject to the deduction specified in sub-paragraph (2) and the reductions applicable in sub-paragraph (5), there shall be met under this paragraph the amounts, calculated on a weekly basis, in respect of the following housing costs—

- (a) payments by way of rent or ground rent relating to a long tenancy and, in Scotland, payments by way of feu duty;
- (b) service charges;
- (c) payments by way of rent charge within the meaning of section 1 of the Rent charges Act 1977;
- (d) payments under a co-ownership scheme;



- (e) payments under or relating to a tenancy or licence of a Crown tenant;
  - (f) where the dwelling occupied as the home is a tent, payments in respect of the tent and the site on which it stands.
- (2) Subject to sub-paragraph (3), the deductions to be made from the weekly amounts to be met under this paragraph are—
- (a) where the costs are inclusive of any of the items mentioned in paragraph 5(2) of Schedule 1 to the Housing Benefit (General) Regulations 1987 (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amount;
  - (b) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit (General) Regulations 1987 (ineligible service charges) the amounts attributable to those ineligible service charges or where that amount is not separated from or separately identified within the housing costs to be met under this paragraph, such part of the payments made in respect of those housing costs which are fairly attributable to the provision of those ineligible services having regard to the costs of comparable services;
  - (c) any amount for repairs and improvements, and for this purpose the expression “repairs and improvements” has the same meaning it has in paragraph 16(2).
- (3) Where arrangements are made for the housing costs, which are met under this paragraph and which are normally paid for a period of 52 weeks, to be paid instead for a period of 53 weeks, or to be paid irregularly, or so that no such costs are payable or collected in certain periods, or so that the costs for different periods in the year are of different amounts, the weekly amount shall be the amount payable for the year divided by 52.
- (4) Where the claimant or a member of his family—
- (a) pays for reasonable repairs or redecorations to be carried out to the dwelling they occupy; and
  - (b) that work was not the responsibility of the claimant or any member of his family; and
  - (c) in consequence of that work being done, the costs which are normally met under this paragraph are waived, then those costs shall, for a period not exceeding 8 weeks, be treated as payable.
- (5) Where in England and Wales an amount calculated on a weekly basis in respect of housing costs specified in sub-paragraph (1)(e) (Crown tenants) includes water charges, that amount shall be reduced—
- (a) where the amount payable in respect of water charges is known, by that amount;
  - (b) in any other case, by the amount which would be the likely weekly water charge had the property not been occupied by a Crown tenant.

### **Non-dependant deductions**

**18.—**(1) Subject to the following provisions of this paragraph, the following deductions from the amount to be met under the preceding paragraphs of this Schedule in respect of housing costs shall be made—

- (a) [<sup>F70</sup>in respect of a non-dependant aged 18 or over who is engaged in any remunerative work, [<sup>F71</sup>£47.75;]]
- (b) in respect of a non-dependant aged 18 or over to whom head (a) does not apply, [<sup>F72</sup>£7.40.]

**Status:** Point in time view as at 09/04/2001.

**Changes to legislation:** There are currently no known outstanding effects for the *The Income Support (General) Regulations 1987, SCHEDULE 3*. (See end of Document for details)

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies because he is in [<sup>F73</sup>remunerative] work, where the claimant satisfies the [<sup>F74</sup>Secretary of State] that the non-dependant's gross weekly income is—

- (a) less than [<sup>F75</sup>£84.00] the deduction to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b);
- (b) not less than [<sup>F76</sup>£84.00] but less than [<sup>F77</sup>£125.00,] the deduction to be made under this paragraph shall be [<sup>F78</sup>£17.00;]
- (c) not less than [<sup>F79</sup>£125.00] but less than [<sup>F80</sup>£163.00,] the deduction to be made under this paragraph shall be [<sup>F81</sup>£23.35.]
- [<sup>F82</sup>(d) not less than [<sup>F83</sup>£163.00] but less than [<sup>F84</sup>£215.00,] the deduction to be made under this paragraph shall be [<sup>F85</sup>£38.20;]
- (e) not less than [<sup>F86</sup>£215.00] but less than [<sup>F87</sup>£269.00,] the deduction to be made under this paragraph shall be [<sup>F88</sup>£43.50.]

(3) Only one deduction shall be made under this paragraph in respect of a couple or, as the case may be, the members of a polygamous marriage, and where, but for this sub-paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of sub-paragraph (2), to be couple's or, as the case may be, all the members of the polygamous marriage's, joint weekly income.

(5) Where a person is a non-dependant in respect of more than one joint occupier of a dwelling (except where the joint occupiers are a couple of members of a polygamous marriage), the deduction in respect of that non-dependant shall be apportioned between the joint occupiers (the amount so apportioned being rounded to the nearest penny) having regard to the number of joint occupiers and the proportion of the housing costs in respect of the dwelling occupied as the home payable by each of them.

(6) No deduction shall be made in respect of any non-dependants occupying the dwelling occupied as the home of the claimant, if the claimant or any partner of his is—

- (a) blind or treated as blind by virtue of paragraph 12 of Schedule 2 (additional condition for the higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—
  - (i) an attendance allowance; or
  - (ii) the care component of the disability living allowance.

(7) No deduction shall be made in respect of a non-dependant—

- (a) if, although he resides with the claimant, it appears to the [<sup>F89</sup>Secretary of State] that the dwelling occupied as his home is normally elsewhere; or
- (b) if he is in receipt of a training allowance paid in connection with a Youth Training Scheme established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) if he is a full-time student during a period of study or, if he is not in remunerative work, during a recognised summer vacation appropriate to his course; or
- (d) if he is aged under 25 and in receipt of income support [<sup>F90</sup>or an income-based jobseeker's allowance]; or

- (e) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under regulation 63 of the Housing Benefit (General) Regulations 1987 (non-dependant deductions); or
  - (f) to whom, but for paragraph (2C) of regulation 3 (definition of non-dependant) paragraph (2B) of that regulation would apply; or
  - (g) if he is not residing with the claimant because he has been a patient for a period in excess of six weeks, or is a prisoner, and for these purposes—
    - (i) “patient” and “prisoner” have the meanings given in regulation 21(3) (special cases), and
    - (ii) the period of six weeks shall be calculated by reference to paragraph (2) of that regulation as if that paragraph applied in his case.
- (8) In the case of a non-dependant to whom sub-paragraph (2) applies because he is in [<sup>F91</sup>remunerative] work, there shall be disregarded from his gross income—
- (a) any attendance allowance or disability living allowance received by him;
  - (b) any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments)(No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds which, had his income fallen to be calculated under regulation 40 (calculation of income other than earnings), would have been disregarded under paragraph 21 of Schedule 9 (income in kind); and
  - (c) any payment which, had his income fallen to be calculated under regulation 40 would have been disregarded under paragraph 39 of Schedule 9 (payments made under certain trusts and certain other payments).

### Textual Amendments

- F70** Sch. 3 para. 18(1)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Social Security (Non-Dependant Deductions) Regulations 1996 (S.I. 1996/2518), regs. 1(1)(c), **4(a)**
- F71** Sum in Sch. 3 para. 18(1)(a) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(g), **16(6)(a)**
- F72** Sum in Sch. 3 para. 18(1)(b) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(g), **16(6)(b)**
- F73** Word in Sch. 3 para. 18(2) inserted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(11)(b)**
- F74** Words in Sch. 3 para. 18(2) substituted (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 5 para. 9(c)** (with reg. 3(1)(b), Schs. 21-23)
- F75** Sum in Sch. 3 para. 18(2)(a) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(c)**
- F76** Sum in Sch. 3 para. 18(2)(b) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(d)(i)**
- F77** Sum in Sch. 3 para. 18(2)(b) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(d)(ii)**
- F78** Sum in Sch. 3 para. 18(2)(b) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(g), **16(6)(d)(iii)**
- F79** Sum in Sch. 3 para. 18(2)(c) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(e)(i)**

*Status: Point in time view as at 09/04/2001.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3. (See end of Document for details)*

- F80** Sum in Sch. 3 para. 18(2)(c) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(e)(ii)**
- F81** Sum in Sch. 3 para. 18(2)(c) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(g), **16(6)(e)(iii)**
- F82** Sch. 3 para. 18(2)(d)(e) added (with effect in accordance with reg. 1(2) of the amending S.I.) by The Social Security (Non-Dependant Deductions) Regulations 1996 (S.I. 1996/2518), regs. 1(1)(c), **4(b)**
- F83** Sum in Sch. 3 para. 18(2)(d) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(f)(i)**
- F84** Sum in Sch. 3 para. 18(2)(d) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(f)(ii)**
- F85** Sum in Sch. 3 para. 18(2)(d) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(g), **16(6)(f)(iii)**
- F86** Sum in Sch. 3 para. 18(2)(e) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(g)(i)**
- F87** Sum in Sch. 3 para. 18(2)(e) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(g)(ii)**
- F88** Sum in Sch. 3 para. 18(2)(e) substituted (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(g), **16(6)(g)(iii)**
- F89** Words in Sch. 3 para. 18(7)(a) substituted (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 5 para. 9(c)** (with reg. 3(1)(b), Schs. 21-23)
- F90** Words in Sch. 3 para. 18(7)(d) inserted (7.4.1997) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/827), regs. 1(1), **6**
- F91** Word in Sch. 3 para. 18(8) inserted (12.12.1995) by The Social Security (Income Support, Claims and Payments and Adjudication) Amendment Regulations 1995 (S.I. 1995/2927), regs. 1(1), **5(11)(c)**

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

- C12** Sch. 3 para. 18(1)(a): sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(a)**
- C13** Sch. 3 para. 18(1)(b): sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(b)**
- C14** Sch. 3 para. 18(2)(b): sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(d)(iii)**
- C15** Sch. 3 para. 18(2)(c): sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(e)(iii)**
- C16** Sch. 3 para. 18(2)(d): sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(f)(iii)**
- C17** Sch. 3 para. 18(2)(e): sum confirmed (with effect in accordance with art. 1(2)(g) of the amending S.I.) by The Social Security Benefits Up-rating (No. 2) Order 2000 2001 (S.I. 2001/207), arts. 1(2)(g), **16(6)(g)(iii)**

### **Rounding of fractions**

**19.** Where any calculation made under this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.]

**Status:**

Point in time view as at 09/04/2001.

**Changes to legislation:**

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, SCHEDULE 3.