

[^{F1}SCHEDULE 3A

Regulations 17(1)(g), 18(1)(h) and 71(1)
(a)(v) and (d)(iv)

PROTECTED SUM

Textual Amendments

F1 Sch. 3A inserted (10.4.1989) by [The Income Support \(General\) Amendment No. 4 Regulations 1988](#) (S.I. 1988/1445), reg. 1(1)(c), Sch. 1 para. 14, **Sch. 2** (with reg. 28)

Interpretation

1.—(1) In this Schedule—

[^{F2}“eligible housing benefit” means—

- (a) for the period of 7 consecutive days beginning on 3rd April 1989, the amount of housing benefit to which the claimant or his partner was entitled in that period which relates to the board and lodging accommodation normally occupied as the home by him or, if he has a partner, by him and his partner;
- (b) for the period of 7 consecutive days beginning on 10th April 1989 or, in a case to which paragraph 7(7)(b) applies, for the period of 7 consecutive days referred to in that paragraph, the amount of the claimant’s or his partner’s maximum housing benefit determined in accordance with regulation 61 of the Housing Benefit (General) Regulations 1987 (maximum housing benefit) which relates to that accommodation;]

“first week” means the benefit week beginning on a day during the period of 7 days commencing on 3rd April 1989;

“income support” includes any sum payable under Part II of the Income Support (Transitional) Regulations 1987;

“protected sum” means the amount applicable under this Schedule [^{F3}or by virtue of regulation 87(2) of the Jobseeker’s Allowance Regulations 1996][^{F4}to a claimant who in the first week is living in board and lodging accommodation or who or whose partner is temporarily absent in that week from that accommodation];

[^{F5}“protected total” means—

- (a) the total of the claimant’s applicable amount under regulation 20 (applicable amounts for persons in board and lodging accommodation) in the first week or, in a case to which paragraph 7(7) applies, if the protected person or any partner of his is temporarily absent from his accommodation in that week, the amount which would have fallen to be calculated under that regulation for that week as if there had been no temporary absence; and
- (b) the amount of any eligible housing benefit for the period of 7 consecutive days beginning 3rd April 1989;]

“relevant provisions” means—

- (a) regulation 17(1)(a) to (f) (applicable amounts);
- (b) regulation 18(1)(a) to (g) (polygamous marriages);
- (c) regulation 71(1)(a)(i) to (iv) (urgent cases);
- (d) regulation 71(1)(d)(i) to (iii);

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- (e) in relation to a case to which paragraph 17(b)(ii) or (c)(i) of Schedule 7 (persons from abroad) applies, the regulations specified in that paragraph but as if the reference to regulation 17(1)(g) in that paragraph were omitted; or
- (f) in relation to a case to which paragraph 17(d)(i) of that Schedule applies, the regulations specified in that paragraph but as if the reference to regulation 18 were a reference to regulation 18(1)(a) to (g) only;

“second week” means the benefit week beginning on a day during the period of 7 days commencing on 10th April 1989.

[^{F6}“third week” means the benefit week beginning on a day during the period of 7 days commencing on 17th April 1989.]

(2) For the purposes of this Schedule—

- (a) in determining a claimant’s applicable amount in his first week, second week or any subsequent benefit week no account shall be taken of any reduction under regulation 22 (reduction in certain cases of unemployment benefit disqualification);
- (b) [^{F7}except in so far as it relates to any temporary absence to which paragraph 7(7) refers,] where a change of circumstances takes effect in the claimant’s second week which, had it taken effect in the first week, would have resulted in a lesser applicable amount in respect of that week, his applicable amount in the first week shall be determined as if the change of circumstances had taken effect in that week.

Textual Amendments

- F2** Words in Sch. 3A para. 1(1) substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(a)(i)**
- F3** Words in Sch. 3A para. 1(1) 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), **25**
- F4** Words in Sch. 3A para. 1(1) inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(a)(ii)**
- F5** Words in Sch. 3A para. 1(1) substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(a)(iii)**
- F6** Words in Sch. 3A para. 1(1) inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(a)(iv)**
- F7** Words in Sch. 3A para. 1(2)(b) inserted (10.4.1989) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(b), **19(b)**

Protected sum

2.—(1) [^{F8}Subject to sub-paragraph (2) and the following paragraphs] of this Schedule, where the protected total of a claimant is more than—

- (a) his applicable amount in the second week determined in accordance with the relevant provisions; and
- (b) any eligible housing benefit for the period [^{F9}of 7 consecutive days] beginning 10th April 1989,

the protected sum applicable to the claimant shall be an amount equal to the difference.

[^{F10}(2) Where—

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- (a) in the second week a claimant's income calculated in accordance with Part V or, as the case may be, VI exceeds the aggregate of his applicable amount determined in accordance with the relevant provisions and X; and
- (b) the amount of income support to which he is entitled in the first week is more than the amount of housing benefit to which he would, but for this sub-paragraph, have been entitled in the period of 7 consecutive days beginning on 10th April 1989,

the protected sum applicable to the claimant shall, subject to sub-paragraph (3), be an amount equal to X+Y+10 pence.

(3) Where a claimant or his partner is, or both are, entitled in the first, second and third weeks to a relevant social security benefit or to more than one such benefit and consequent upon the Social Security Benefits Up-rating Order 1989 the claimant or his partner is, or both are, entitled to an increase in any one or more of those benefits in the third week, the protected sum under sub-paragraph (2) shall be increased by an amount equal to the difference between—

- (a) the amount of benefit or aggregate amount of those benefits to which the claimant or his partner is, or both are, entitled in the third week; and, if less,
- (b) the amount of benefit or aggregate amount of those benefits to which the claimant or his partner is, or both are, entitled in the second week.

(4) In this paragraph—

“X” means the sum which, but for sub-paragraph (2), would be the protected sum applicable under sub-paragraph (1);

“Y” means the amount of the excess to which sub-paragraph (2)(a) refers;

“relevant social security benefit” means—

- (a) child benefit;
- (b) any benefit under the Social Security Act;
- (c) war disablement pension;
- (d) war widow's pension;
- (e) any payment under a scheme made under the Industrial Injuries and Diseases (Old Cases) Act 1975;
- (f) any concessionary payment.]

Textual Amendments

- F8** Words in Sch. 3A para. 2 substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(b)(i)**
- F9** Words in Sch. 3A para. 2(b) inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(b)(ii)**
- F10** Sch. 3A para. 2(2)-(4) inserted (10.4.1989) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), **regs. 1(1)**, 1(1)(b), 7(c)

Persons not entitled to a protected sum

- 3.—(1) A protected sum shall not be applicable to a claimant where in the first week—
- (a) he is aged under 25 and, if he is a member of a couple, his partner is also aged under 25; and
 - (b) he is required to be available for employment for the purposes of section 20(3)(d)(i) of the Act; and
 - (c) he was not in receipt of supplementary benefit as a boarder on 24th November 1985; and

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- (d) none of the conditions in paragraph 16(4) of Schedule 5 (applicable amounts of persons in board and lodging accommodation or hostels) applies to him.

[^{F11}(2) A protected sum shall not be applicable to a claimant, [^{F12}unless he, or any partner of his, is entitled to housing benefit for the period of 7 consecutive days beginning 10th April 1989 or, where paragraph 7(7)(b) applies, for the period of 7 consecutive days referred to in that paragraph in respect of] the board and lodging accommodation normally occupied as the home by him, or if he has a partner, by him and his partner.]

[^{F11}(3) Subject to paragraph 7, a protected sum shall not be applicable to a claimant where he changes or vacates his accommodation during the period of 7 consecutive days beginning 10th April 1989.]

Textual Amendments

- F11** Sch. 3A para. 3(2)(3) added (10.4.1989) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(b), **19(c)**
- F12** Words in Sch. 3A para. 3(2) substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(d)**

Period of application

4. Subject to paragraph 7, the protected sum shall not be applicable to a claimant for more than—
- in the case of a claimant who is a member of a family and that family includes a child or young person and during the first week that family was in accommodation not provided or secured by a local authority under section 63 or 65(2) or (3)(a) of the Housing Act 1985 or section 2 of the Housing (Scotland) Act 1987, a period of 52 weeks beginning with the second week;
 - in any other case, a period of 13 weeks beginning with the second week.

Reduction of protected sum

5.—(1) Subject to [^{F13}sub-paragraphs (2) to (6)], the protected sum shall be reduced by the amount of any increase, in a benefit week subsequent to the second week, in the claimant's applicable amount determined in accordance with the relevant provisions.

(2) Where regulation 22 (reduction in certain cases of unemployment benefit disqualification) [^{F14}or regulation 21A (reductions in certain cases of failure to attend courses)] ceases to apply to a claimant and as a result his applicable amount increases no account shall be taken of that increase.

[^{F15}(3) Where by virtue of the coming into force of regulation 5 of the Income Support (General) Amendment Regulations 1989 the claimant's applicable amount increases in his benefit week beginning on a day during the period of 7 days commencing on 9th October 1989, no account shall be taken of that increase.]

[^{F16}(4) Where a claimant's applicable amount increases because a child or young person mentioned in paragraph (5)(c) of regulation 16 (circumstances in which a person is treated or not treated as a member of the household) is treated as a member of the claimant's household under paragraph (6) of that regulation, the claimant's protected sum shall not be reduced by the amount of that increase unless the child or young person has been treated as a member of the household for a continuous period which exceeds 8 weeks.]

[
F17(5) Where by virtue of the coming into force of regulation 15(a), (b) or (c) of the Income Support (General) Amendment No. 4 Regulations 1991 a claimant's applicable amount increases in his benefit week beginning on a day during the period of 7 days commencing on 1st October 1991, no account shall be taken of that increase.]

[
F18(6) Where by virtue of the coming into force of regulation 3(1) and (2) of the Income-Related Benefits Amendment Regulations 1992 a claimant's applicable amount increases in his benefit week beginning on a day during the period of 7 days beginning on 5th October 1992, no account shall be taken of that increase.]

Textual Amendments

- F13** Words in Sch. 3A para. 5(1) substituted (coming into force in accordance with reg. 2(2) of the amending S.I.) by [The Income-Related Benefits Amendment Regulations 1992 \(S.I. 1992/1326\)](#), regs. 2(2), **3(3)(a)**
- F14** Words in Sch. 3A para. 5(2) inserted (17.12.1990) by [The Income Support \(General and Transitional\) Amendment Regulations 1990\(S.I. 1990/2324\)](#), regs. 1(1), **4**
- F15** Sch. 3A para. 5(3) added (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), regs. 1(1), **7(e)(ii)**
- F16** Sch. 3A para. 5(4) added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1990 \(S.I. 1990/547\)](#), regs. 1(1)(b), **19(b)**
- F17** Sch. 3A para. 5(5) added (1.10.1991) by [The Income Support \(General\) Amendment No. 4 Regulations 1991 \(S.I. 1991/1559\)](#), regs. 1(1)(b), **16(b)** (with reg. 1(2))
- F18** Sch. 3A para. 5(6) added (coming into force in accordance with reg. 2(2) of the amending S.I.) by [The Income-Related Benefits Amendment Regulations 1992 \(S.I. 1992/1326\)](#), regs. 2(2), **3(3)(b)**

Termination of protected sum

6. Subject to paragraph 7, the protected sum shall cease to be applicable if—
- (a) that amount is reduced to nil under paragraph 5; or
 - (b) the claimant changes or [F19vacates] his accommodation; or
 - (c) the claimant ceases to be entitled to income support.

Textual Amendments

- F19** Word in Sch. 3A para. 6(b) substituted (10.4.1989) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(b), **19(d)**

Protected persons

7.—(1) Subject to sub-paragraph (2), for the purposes of this paragraph a protected person is a claimant, where—

- (a) in respect of the first week he is entitled to an increase under paragraph 7 of Schedule 5 (applicable amounts of persons in board and lodging accommodation or hostels) because either he or, if he is one of a couple or a member of a polygamous marriage, he or his partner satisfies any of the conditions in paragraph 8 of that Schedule; or
- (b) in the first week the claimant or, if he has a partner, either he or his partner—
 - (i) is in need of personal care by reason of [F20old age,] mental or physical disablement, mental illness, or dependence on alcohol or drugs; and

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- (ii) is receiving both board and personal care in accommodation other than a residential care home or nursing home or residential accommodation within the meaning of regulation 21(3) (special cases)^{F21} ...; and
 - (iii) is in accommodation which he entered under arrangements for his personal care made by a statutory authority or a voluntary or charitable body and those arrangements are being supervised on a continuing basis by that authority or body; or
 - (c) he or, if he has a partner, either he or his partner but for his temporary absence from his accommodation for a period not exceeding 13 weeks, which includes the first week, would have satisfied (a) or (b) above.
- (2) A claimant is not a protected person if he or, if he has a partner, he or his partner, in the first week, is temporarily living in board and lodging accommodation and that accommodation is not the accommodation normally occupied as the home.
- (3) Paragraph 4 shall not apply to a protected person.
- (4) Paragraph 6(b) shall not apply to a protected person if:
- (a) he moves to accommodation where he satisfies conditions (i) to (iii) of sub-paragraph (1) (b); or
 - (b) he becomes a patient within the meaning of regulation 21(3); or
 - (c) on his ceasing to be a patient within the meaning of regulation 21(3), either he returns to the accommodation which he occupied immediately before he became a patient, or he moves to other accommodation where he satisfies conditions [^{F22}(i) to (iii)] of sub-paragraph (1) (b); or
 - (d) in a case to which sub-paragraph (6) applies, on his becoming re-entitled to income support, he is either in the accommodation which he occupied immediately before he ceased to be entitled to income support, or in accommodation where he satisfies conditions (i) to (iii) of sub-paragraph (1)(b).
- ^{F23}(5) Except where sub-paragraph (7) applies, where a protected sum was applicable to a protected person immediately before he or any partner of his became a patient within the meaning of regulation 21(3) for a period of 14 weeks or less, he shall, subject to sub-paragraph (4)(c), on his or, as the case may be, his partner's ceasing to be a patient, be entitled to a protected sum equal to—
- (a) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which his applicable amount ceases to be determined under paragraph 1 of Schedule 7 and either—
 - (i) any eligible housing benefit for the period of 7 consecutive days beginning on 10th April 1989; or, if greater,
 - (ii) in a case where sub-paragraph (7)(b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph; or
 - (b) the amount of the protected sum to which he was entitled in the immediately preceding benefit week,
- whichever is the lower.
- (6) Paragraph 6(c) shall not apply to a protected person who has ceased to be entitled to income support for [^{F24}a period not exceeding the permitted period determined in accordance with regulation 3A (permitted period)]—
- (a) if immediately before he ceased to be so entitled a protected sum was applicable to him; and

- (b) except where sub-paragraph (7) applies, if during that period the protected person becomes re-entitled, or would by virtue of this sub-paragraph be re-entitled, to income support he shall, subject to sub-paragraph (4)(d), be entitled to a protected sum equal to—
- (i) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which he becomes so re-entitled and either any eligible housing benefit for the period of 7 consecutive days beginning 10th April 1989 or, if greater, in a case to which sub-paragraph (7) (b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph; or
 - (ii) the amount of the protected sum to which he was previously entitled,
- whichever is the lower.
- (7) Where a protected person or any partner of his is temporarily absent from his accommodation for a period not exceeding 13 weeks which includes the first or second week (or both)—
- (a) in a case where a protected sum was applicable to the protected person immediately before his or, as the case may be, his partner's return to that accommodation and the full charge was made for the accommodation during the temporary absence, on the protected person's or, as the case may be, his partner's return to that accommodation, the protected person shall be entitled to a protected sum equal to—
 - (i) the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first complete benefit week after his or, as the case may be, his partner's return to that accommodation and any eligible housing benefit for the period of 7 consecutive days beginning 10th April 1989; or
 - (ii) the amount of the protected sum which was applicable to him in the immediately preceding benefit week,whichever is the lower;
 - (b) in a case where—
 - (i) a protected sum has not at any time been applicable to the protected person; or
 - (ii) immediately before the protected person's or, as the case may be, his partner's return to that accommodation a protected sum was applicable but a reduced charge was made for the accommodation during the temporary absence,the protected person on his or, as the case may be, his partner's return to that accommodation shall, subject to sub-paragraph (8), be entitled to a protected sum equal to the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first complete benefit week after his or, as the case may be, his partner's return to that accommodation and the amount of eligible housing benefit for the period of 7 consecutive days beginning on the date determined in accordance with regulation 65 or, as the case may be, 68(2) of the Housing Benefit (General) Regulations 1987 (date on which entitlement is to commence or change of circumstances is to take effect) following that person's return to that accommodation.
- (8) Where, in a case to which sub-paragraph (7)(b)(i) applies—
- (a) in the first complete benefit week after the protected person's or, as the case may be, his partner's return to his accommodation the protected person's income calculated in accordance with Part V or, as the case may be, VI exceeds the aggregate of his applicable amount determined in accordance with the relevant provisions and X; and
 - (b) the amount of income support to which he was entitled in the first week is more than the amount of housing benefit to which he would, but for this sub-paragraph, have been entitled in the period of 7 consecutive days beginning on the date determined in accordance with regulation 65 or, as the case may be, 68(2) of the Housing Benefit

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(General) Regulations 1987 following his or, as the case may be, his partner's return to that accommodation,

the protected sum applicable shall, subject to sub-paragraph (9), be an amount equal to X+Y+10 pence.

(9) Where the protected person or, as the case may be, his partner returns to the accommodation in the second week and he or his partner is, or both are, entitled in the first, second and third weeks to a relevant social security benefit or to more than one such benefit and consequent upon the Social Security Benefits Up-rating Order 1989 he or his partner is, or both are, entitled to an increase in any one or more of those benefits in the third week, the protected sum under sub-paragraph (8) shall be increased by an amount equal to the difference between—

- (a) the amount of benefit or aggregate amount of those benefits to which the protected person or his partner is, or both are, entitled in the third week; and, if less,
- (b) the amount of benefit or aggregate amount of those benefits to which the protected person or his partner is, or both are, entitled in the second week.

(10) In sub-paragraph (8)—

“X” means the sum which, but for sub-paragraph (8), would be the protected sum applicable in a case to which sub-paragraph (7)(b)(i) applies;

“Y” means the amount of the excess to which sub-paragraph (8)(a) refers;

“relevant social security benefit” has the same meaning as in paragraph 3(4).]]

Textual Amendments

- F20** Words in Sch. 3A para. 7(1)(b)(i) inserted (10.4.1989) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(b), **19(e)**
- F21** Words in Sch. 3A para. 7(1)(b)(ii) omitted (with effect in accordance with reg. 1(1)(c) of the amending S.I.) by virtue of [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), reg. 1(1), **Sch. 1 para. 11**
- F22** Words in Sch. 3A para. 7(4)(c) substituted (10.4.1989) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(b), **19(f)**
- F23** Sch. 3A para. 7(5)-(10) substituted for para. 7(5)-(7) (10.4.1989) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), **regs. 1(1), 1(1)(b), 7(f)**
- F24** Words in Sch. 3A para. 7(6) substituted (9.10.1989) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(a), **8**

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