

[^{F1}SCHEDULE 3B

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

PROTECTED SUM

Textual Amendments

- F1** Sch. 3B inserted (with effect in accordance with reg. 1(1)(c) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1989 \(S.I. 1989/534\)](#), reg. 1(1), Sch. 1 para. 18, **Sch. 2**

Interpretation

1.—(1) In this Schedule—

“eligible housing benefit” means—

- (a) for the period of 7 consecutive days beginning on 2nd October 1989, the amount of housing benefit to which the claimant or his partner was entitled in that period which relates to the hostel 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 9th October 1989 or, in a case to which paragraph 6(4)(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 2nd October 1989;

“hostel” means any establishment which immediately before the commencement of this Schedule was a hostel within the meaning of regulation 20(2) (applicable amounts for persons in hostels);

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

“March benefit week” means the benefit week beginning on a day during the period of 7 consecutive days beginning 20th March 1989;

“protected sum” means the amount applicable under this Schedule [^{F2}or by virtue of regulation 87(2) of the Jobseeker’s Allowance Regulations 1996] to a claimant who in the first week is living in a hostel or who or whose partner is temporarily absent in that week from that accommodation;

“protected total” means—

- (a) the total of the claimant’s applicable amount under regulation 20 in the first week or, ^{F3}... if the claimant or any partner of his is temporarily absent from his accommodation [^{F4}for a period not exceeding 14 weeks which includes 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 2nd October 1989;

“relevant benefit week” means the benefit week beginning on a day during the period of 7 days commencing on 9th April 1990;

“relevant provisions” means—

- (a) regulation 17(1)(a) to (f) (applicable amounts);

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- (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);
- (dd) [^{F5}paragraph 13 of Schedule 7 (persons in residential accommodation);]
- (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 9th October 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) except in so far as it relates to any temporary absence to which paragraph 6(4) 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. 3B 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**
- F3** Words in Sch. 3B para. 1(1) omitted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by virtue of [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(b), **9(a)(i)**
- F4** Words in Sch. 3B para. 1(1) substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(b), **9(a)(i)**
- F5** Words in Sch. 3B para. 1(1) inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(b), **9(a)(ii)**

Protected sum

2.—(1) Subject to the following provisions of this paragraph 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 less the amount of any increase consequent on the coming into force of regulation 5 of the Income Support (General) Amendment Regulations 1989; and
- (b) any eligible housing benefit for the period of 7 consecutive days beginning 9th October 1989,

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

(2) Where—

- (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 9th October 1989,

the protected sum applicable to the claimant shall be an amount equal to X+Y+10 pence.

(3) In sub-paragraph (2)—

“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.

(4) For the period beginning with the claimant's relevant benefit week the protected sum applicable to the claimant shall, subject to sub-paragraph (6) and the following paragraphs of this Schedule, be—

(a) the total of—

- (i) the amount of the allowance for personal expenses for the claimant or, if he is a member of a family, for him and for each member of his family in the first week determined, or which, but for any temporary absence, would have been determined, in accordance with paragraph 11 of Schedule 5 as then in force;
- (ii) [^{F6}subject to sub-paragraph (7)] the amount of any increase for meals in the first week determined, or which, but for any temporary absence, would have been determined, in accordance with paragraph 2 of that Schedule; and
- (iii) the amount or, if he is a member of a family, the aggregate of the amounts determined in accordance with sub-paragraph (5),

less the aggregate of his applicable amount in the second week determined, or which, but for any temporary absence, would have been determined, in accordance with the relevant provisions and, where applicable, the amount of any reduction in the protected sum made by virtue of paragraph 4 in a benefit week occurring before the relevant benefit week; or

(b) the amount of the protected sum which was applicable to him in the immediately preceding benefit week,

whichever is the lower.

(5) For the purposes of sub-paragraph (4)(a), where in the first week the accommodation charge makes or, but for any temporary absence, would have made, provision or no provision for meals, as respects each person an amount shall be determined as follows—

(a) in a case where the provision is for at least three meals a day—

- (i) for the claimant, £17.20;
- (ii) for a member of his family aged 16 or over, £12.50;
- (iii) for a member of his family aged less than 16, £6.25;

(b) except where head (c) applies, in a case where the provision is for less than three meals a day—

- (i) for the claimant, £13.85;
- (ii) for a member of his family aged 16 or over, £8.30;
- (iii) for a member of his family aged less than 16, £4.15;

(c) in a case where the provision is for breakfast only—

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- (i) for the claimant, £7.05;
 - (ii) for a member of his family, £1.50;
- (d) in a case where there is no provision for meals, for the claimant or, if he is a member of a family, for the claimant and for the members of his family for whom there is no such provision, £5.55;
- (6) Where in the relevant benefit week the claimant is in, or only temporarily absent from, residential accommodation, the protected sum applicable to the claimant for the period beginning with that week shall^{F7}, subject to the following paragraphs of this Schedule,] be—
- (a) equal to the difference between—
 - (i) the amount of the allowance for personal expenses for the claimant or, if he is a member of a family, for him and for each member of his family in the first week determined, or which, but for any temporary absence, would have been determined, in accordance with paragraph 11 of Schedule 5 as then in force; and
 - (ii) the amount of the allowance for personal expenses for the claimant or, if he is a member of a family, for him and for each member of his family in the second week determined, or which, but for any temporary absence would have been determined, under paragraph 13 of Schedule 7 (persons in residential accommodation),
 less, where applicable, the amount of any reduction in the protected sum made by virtue of paragraph 4 in a benefit week occurring before the relevant benefit week; or
 - (b) the amount of the protected sum which was applicable to him in the immediately preceding benefit week,

whichever is the lower.

^{F8}(7) In the case of a member of a family who in the first week is a child aged less than 11, the amount of any increase for meals under sub-paragraph (4)(a)(ii) shall be either—

- (a) the amount of any such increase in the first week determined, or which, but for any temporary absence, would have been determined, in accordance with paragraph 2 of Schedule 5 as then in force; or
- (b) £17.65,

whichever is the lower.]

Textual Amendments

- F6** Words in Sch. 3B para. 2(4)(a)(ii) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1990 \(S.I. 1990/547\)](#), regs. 1(1)(b), **20(a)(i)**
- F7** Words in Sch. 3B para. 2(6) inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(b), **9(b)**
- F8** Sch. 3B para. 2(7) added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1990 \(S.I. 1990/547\)](#), reg. 1(1)(b), **20(a)(ii)**

Persons not entitled to a protected sum

3.—(1) Subject to paragraph 6, a protected sum shall not be applicable to a claimant where he changes or vacates his hostel during the period of 7 consecutive days beginning 9th October 1989.

(2) Except where regulation 8(2)(b) of the Housing Benefit (General) Regulations 1987 (eligible housing costs) applies, a protected sum shall not be applicable to a claimant unless he, or any partner

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of his, is entitled to housing benefit for the period of 7 consecutive days beginning 9th October 1989 or, where paragraph 6(4)(b) applies, for the period of 7 consecutive days referred to in that paragraph, in respect of the hostel normally occupied as the home by him, or if he has a partner, by him and his partner.

- (3) A protected sum shall not be applicable to a claimant where—
- (a) he has been or would, but for any temporary absence, have been in the same accommodation in both the March benefit week and the second week, and—
 - (i) his applicable amount in both those weeks fell or would have fallen, but for any temporary absence, to be determined under paragraph 13(1) of Schedule 7; or
 - (ii) his applicable amount in the second week fell or would have fallen, but for any temporary absence, to be determined under that paragraph and would also have fallen to be so determined in the March benefit week had his stay in that accommodation been other than temporary; or
 - (b) his applicable amount in the second week fell or would have fallen, but for any temporary absence, to be determined under that paragraph and would also have fallen to be so determined in the March benefit week had he been in the same accommodation in that week and had his stay in that accommodation been other than temporary;^{F9} or
 - (c) his applicable amount in the first week fell or would have fallen, but for any temporary absence, to be determined under regulation 20 but would not have fallen to be so determined in the March benefit week had he been in the same accommodation in that week and had his stay in that accommodation been other than temporary.]

^{F10}(4) For the purposes of sub-paragraph (3), where—

- (a) a claimant's applicable amount in respect of the March benefit week has been determined under paragraph 13(1) of Schedule 7 and it is subsequently determined ^{F11}... that it fell to be determined under regulation 20, he shall, notwithstanding [^{F12}that determination], be treated as if his applicable amount fell to be determined under that paragraph;
- (b) a claimant has been temporarily absent from his accommodation in the March benefit week and immediately before the period of temporary absence his applicable amount was determined under paragraph 13(1) of Schedule 7, he shall be treated as if his applicable amount would have fallen to be determined under that paragraph during the period of temporary absence notwithstanding that it is subsequently determined ^{F11}... that immediately before the period of temporary absence it fell to be determined under regulation 20;
- (c) a claimant has entered his accommodation after the March benefit week, he shall be treated as if his applicable amount, had he been in that accommodation in the March benefit week, would not have fallen to be determined under regulation 20 in that week if the applicable amounts of other claimants in that accommodation in that week were determined otherwise than under that regulation notwithstanding that it is subsequently determined ^{F11}... that they fell to be determined under regulation 20.]

Textual Amendments

- F9** Sch. 3B para. 3(3)(c) and word added (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(b), **9(c)(i)**
- F10** Sch. 3B para. 3(4) added (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(b), **9(c)(ii)**

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- F11** Words in Sch. 3B para. 3(4) 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. 10(a)** (with reg. 3(1)(b), Schs. 21-23)
- F12** Words in Sch. 3B para. 3(4)(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. 10(b)** (with reg. 3(1)(b), Schs. 21-23)

Reduction of protected sum

4.—(1) Subject to ^{F13}sub-paragraphs (2) to (5)], 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 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.]

[
^{F16}(4) 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.]

[
^{F17}(5) 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 commencing on 5th October 1992, no account shall be taken of that increase.]

Textual Amendments

- F13** Words in Sch. 3B para. 4(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(4)(a)**
- F14** Words in Sch. 3B para. 4(2) inserted (17.12.1990) by The Income Support (General and Transitional) Amendment Regulations 1990 (S.I. 1990/2324), regs. 1(1), **5**
- F15** Sch. 3B para. 4(3) 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), **20(b)(ii)**
- F16** Sch. 3B para. 4(4) added (1.10.1991) by The Income Support (General) Amendment No. 4 Regulations 1991 (S.I. 1991/1559), regs. 1(1)(b), **17(b)** (with reg. 1(2))
- F17** Sch. 3B para. 4(5) 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(4)(b)**

Termination of protected sum

5. Subject to paragraph 6, the protected sum shall cease to be applicable if—

- (a) that amount is reduced to nil under paragraph 4; or
- (b) the claimant changes or vacates his hostel; or
- (c) the claimant ceases to be entitled to income support.

Modifications in cases of temporary absence and loss of entitlement to income support

6.—(1) Paragraph 5(b) shall not apply to a claimant if—

- (a) he becomes a patient within the meaning of regulation 21(3) (special cases); or
- (b) on his ceasing to be a patient within the meaning of regulation 21(3), he returns to the hostel which he occupied immediately before he became a patient; or
- (c) in a case to which sub-paragraph (3) applies, on his becoming re-entitled to income support, he is in the accommodation which he occupied immediately before he ceased to be entitled to income support.

(2) Except where sub-paragraph (4) applies, where a protected sum was applicable to the claimant 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 (1)(b), on his or, as the case may be, his partner 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 9th October 1989; or, if greater,
 - (ii) in a case where sub-paragraph (4)(b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph; or

[where the first benefit week in which his applicable amount ceases to be determined under
^{F18}(aa) paragraph 1 of Schedule 7 is the relevant benefit week, the amount determined under paragraph 2(4) or, as the case may be, paragraph 2(6), less any reduction under paragraph 4(1) other than a reduction which arises by virtue of his ceasing to be a patient within the meaning of regulation 21(3); or]

- (b) the amount of the protected sum to which he was entitled in the immediately preceding benefit week,

whichever is the lower.

(3) Paragraph 5(c) shall not apply to a claimant who has ceased to be entitled to income support for [^{F19}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 (4) applies, if during that period he becomes re-entitled, or would by virtue of this sub-paragraph be re-entitled, to income support he shall, subject to sub-paragraph (1)(c), 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 9th October 1989 or, if greater, in a case to which sub-paragraph (4) (b) applied, any eligible housing benefit for the period of 7 consecutive days referred to in that sub-paragraph; or

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- [^{F20}(ii) where the first benefit week in which he becomes so re-entitled is the relevant benefit week, the amount determined under paragraph 2(4) or, as the case may be, paragraph 2(6), less any reduction under paragraph 4(1) in that benefit week; or
- (iii) where the first benefit week in which he becomes so re-entitled is a week subsequent to the relevant benefit week, the amount which would have been determined under paragraph 2(4) or, as the case may be, paragraph 2(6) had he been entitled in the relevant benefit week, less any reduction under paragraph 4(1) in the benefit week in which he becomes re-entitled; or
- (iv) the amount of the protected sum to which he was previously entitled,]

whichever is the lower.

(4) Where a claimant or any partner of his is temporarily absent from his accommodation for a period not exceeding 14 weeks which includes the first or second week (or both)–

- (a) in a case where a protected sum was applicable to the claimant 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 claimant's or, as the case may be, his partner's return to that accommodation, the claimant 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 9th October 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 claimant; or
- (ii) immediately before the claimant's or, as the case may be, his partner's return to that accommodation a protected sum was applicable to the claimant but a reduced charge was made for the accommodation during the temporary absence,

the claimant on his or, as the case may be, his partner's return to that accommodation shall, subject to sub-paragraph (5), 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.

(5) Where, in a case to which sub-paragraph (4)(b)(i) applies–

- (a) in the first complete benefit week after the claimant's or, as the case may be, his partner's return to his accommodation the 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 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

(General) Regulations 1987 following his or, as the case may be, his partner's return to that accommodation,
the protected sum applicable to the claimant shall be an amount equal to $X+Y+10$ pence.

(6) In sub-paragraph (5)–

“X” means the sum which, but for sub-paragraph (5), would be the protected sum applicable in a case to which sub-paragraph (4)(b)(i) applies;

“Y” means the amount of the excess to which sub-paragraph (5)(a) refers.

(7) The foregoing provisions of this paragraph shall not apply to a claimant if he or, if he has a partner, he or his partner, in the first week is temporarily living in a hostel and that accommodation is not the accommodation normally occupied as the home.]

Textual Amendments

- F18** Sch. 3B para. 6(2)(aa) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1990 \(S.I. 1990/547\)](#), regs. 1(1)(b), **20(c)(i)**
- F19** Words in Sch. 3B para. 6(3) substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Income Support \(General\) Amendment No. 3 Regulations 1989 \(S.I. 1989/1678\)](#), regs. 1(1)(b), **9(d)**
- F20** Sch. 3B para. 6(3)(b)(ii)-(iv) substituted for Sch. 3B para. 6(3)(b)(ii) (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), **20(c)(ii)**

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