

---

STATUTORY INSTRUMENTS

---

**1989 No. 534**

**The Income Support (General) Amendment Regulations 1989**

**Amendment of Schedule 3A to the General Regulations**

**7. In Schedule 3A to the General Regulations (protected sum)–**

**(a) in paragraph 1(1)–**

- (i) for the definition of “eligible housing benefit” there shall be substituted the following definition–

““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(1) (maximum housing benefit) which relates to that accommodation;”;

- (ii) at the end of the definition of “protected sum” there shall be added the words “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”;

- (iii) for the definition of “protected total” there shall be substituted the following definition–

““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;”;

- (iv) after the definition of “second week” there shall be added the following definition–

““third week” means the benefit week beginning on a day during the period of 7 days commencing on 17th April 1989.”;

**(b) in paragraph 2–**

- (i) for the words “Subject to the following provisions” there shall be substituted the words “Subject to sub-paragraph (2) and the following paragraphs”;
- (ii) in sub-paragraph (b) after the words “the period” there shall be inserted the words “of 7 consecutive days”;
- (c) at the end of paragraph 2 there shall be added the following sub-paragraphs–
  - “(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 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<sup>(2)</sup> 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<sup>(3)</sup>;
      - (f) any concessionary payment.”;
- (d) in paragraph 3(2) for the words “where he, or any partner of his,” to “in respect of” there shall be substituted the words “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”;
- (e) in paragraph 5–

---

<sup>(2)</sup> S.I. 1989/43.

<sup>(3)</sup> 1975 c. 16.

- (i) in sub-paragraph (1) for the words “sub-paragraph (2)” there shall be substituted the words “sub-paragraphs (2) and (3)”;
- (ii) after sub-paragraph (2) there shall be added the following sub-paragraph—
  - “(3) Where by virtue of the coming into force of regulation 5 of the Income Support (General) Amendment Regulations 1989(4) 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.”;
- (f) in paragraph 7, for sub-paragraphs (5) to (7) there shall be substituted the following sub-paragraphs—
  - “(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 a period of not more than 8 weeks—
    - (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 (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).”.