

SCHEDULE 1

Regulation 8

TRANSITIONAL PROVISIONS

PART I

INTERPRETATION

1. In this Schedule, unless the context otherwise requires—
 - “the new rules” means the provisions in these Regulations, apart from regulation 8 (transitional provisions) and this Schedule;
 - “the Administration Act” means the Social Security Administration Act 1992(1);
 - “disregard” (when used as a noun) means a specified weekly amount to be disregarded;
 - “the old rules” means the provisions in Part III of Schedule 1 to the Supplementary Benefits Act 1976(2), as it had effect immediately before amendments made by Schedule 2 to the Social Security Act 1980(3);
 - “protected amount” means the amount which a local authority determines that a resident shall be liable to pay for his accommodation after—
 - (a) having assessed his ability to pay for his accommodation in accordance with the new rules and the old rules under paragraph 6(1) or (2) and having concluded in accordance with paragraph 6(3) that the old rules shall continue to apply to that resident; or
 - (b) any further revision of that amount in accordance with paragraph 7 or 8;
 - “temporarily absent” means absent for—
 - (a) a period spent in hospital of 52 weeks or less; or
 - (b) any other period of 13 weeks or less.

PART II

THE FIRST STAGE

2. This Part of this Schedule applies to any resident who immediately before these Regulations come into force is in, or temporarily absent from, accommodation provided under Part III of the Act(4) other than that provided under section 29(4)(c) of the Act(5) (provision of hostels where persons for whom welfare services are provided may live).
3. From the date on which these Regulations come into force until 11th April 1993 (both dates inclusive), for the purposes of assessing the ability of a resident to whom this Part of this Schedule applies to pay for his accommodation, a local authority shall continue to give effect to the old rules.

(1) 1992 c. 5.
(2) 1976 c. 71; as amended by section 14(9) of the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), and as modified by S.I.1978/1526.
(3) 1980 c. 30.
(4) As respects Scotland, see section 65(f) of the Act, as amended by paragraph 5(9) of Schedule 9 to the National Health Service and Community Care Act 1990, and section 87(3) of the Social Work (Scotland) Act 1968.
(5) Amended by section 14(1) of and paragraph 3 of Schedule 3 to the Employment and Training Act 1973 (c. 50).

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PART III

THE SECOND STAGE

4.—(1) Subject to sub-paragraph (2) and paragraph 5, this Part of this Schedule applies to any resident who—

- (a) on 11th April 1993 is in, or temporarily absent from, accommodation provided under Part III of the Act other than that provided under section 29(4)(c) of the Act (provision of hostels where persons for whom welfare services are provided may live); and
- (b) was in, or temporarily absent from, such accommodation immediately before these Regulations came into force.

(2) This Part of this Schedule shall apply to such a resident only if on 11th April 1993 he—

- (a) qualifies, or would qualify if he were not temporarily absent from such accommodation, for any of the disregards under the old rules and the aggregated weekly total of any such disregards is, or would be, more than £1 higher than the aggregated weekly total of the disregards for which he would qualify under the new rules; or
- (b) is in possession of capital in excess of or equal to the amount referred to in regulation 20 (capital limit).

5. This Part of this Schedule shall not apply to—

- (a) less dependent residents; or
- (b) residents who on 11th April 1993 are paying for their accommodation at the standard rate or who would be paying for it at that rate if they were not temporarily absent from their accommodation.

6.—(1) Subject to paragraph (2), the liability of a resident to whom this Part of this Schedule applies to pay for his accommodation shall in respect of the week beginning 12th April 1993 be assessed both in accordance with the new rules and in accordance with the old rules.

(2) If a resident is temporarily absent from the accommodation provided for him under Part III of the Act during the week beginning 12th April 1993, he shall be assessed both in accordance with the new rules and in accordance with the old rules in respect of the first full week after his return to that accommodation.

(3) If a resident is assessed under the old rules as liable to pay for his accommodation a charge which is lower than the charge which he is assessed as liable to pay for his accommodation under the new rules, then for the purposes of assessing his ability to pay for his accommodation, the old rules shall, subject to the following provisions of this Part of this Schedule, continue to apply to that resident from 12th April 1993.

7.—(1) Subject to paragraph 9, following the projected review of income support for the tax year 1994—1995 in accordance with section 150 of the Administration Act⁽⁶⁾ (annual up-rating of benefits) and any consequential order up-rating income support made under that section, a resident's protected amount shall be increased by 33 per cent of the difference between—

- (a) the amount which in respect of the first full week after the date on which that order comes into force⁽⁷⁾ he would be liable to pay for his accommodation in accordance with the new rules; and
- (b) his protected amount as assessed under paragraph 6 or as redetermined in accordance with paragraph 8.

⁽⁶⁾ See section 150(1)(h) of that Act.

⁽⁷⁾ See section 150(10)(a) of the Administration Act.

(2) Subject to paragraph 9, following the projected review of income support for the tax year 1995—1996 in accordance with section 150 of the Administration Act and any consequential order up-rating income support made under that section, a resident's protected amount shall be increased by 33 per cent of the difference between—

- (a) the amount which in respect of the first full week after the date on which that order comes into force he would be liable to pay for his accommodation in accordance with the new rules; and
- (b) his protected amount as redetermined in accordance with sub-paragraph (1) or in accordance with paragraph 8.

(3) Following the projected review of income support for the tax year 1996—1997 in accordance with section 150 of the Administration Act and any consequential order up-rating income support made under that section, the provisions of this Part of this Schedule shall cease to apply in all cases on the date on which that order comes into force.

(4) If in relation to any of sub-paragraphs (1) to (3) no up-rating order is made in a relevant tax year, the reference in the relevant sub-paragraph to the date of an order coming into force shall be construed as a reference to the first Monday in the tax year referred to in that sub-paragraph.

8.—(1) Subject to the following provisions of this paragraph, once a resident has been assessed as liable to pay a protected amount for his accommodation, any increase in his income or capital shall not affect the level of his protected amount.

(2) When a resident's protected amount is redetermined in accordance with paragraph 7, any increase in his income or capital shall be taken into consideration for the purposes of any calculation under the new rules which is made for the purposes of that paragraph.

(3) If a resident's resources are increased by—

- (a) any income such as is mentioned in regulation 17(4); or
- (b) any payment of capital such as is mentioned in regulation 25(4),

in respect of the first full week after that increase in his resources, that resident shall be assessed both in accordance with the new rules and in accordance with the old rules, and paragraphs (4) to (7) shall apply.

(4) If the charge which the resident is assessed as liable to pay under the old rules is lower than the charge which he is assessed as liable to pay under the new rules, for the purposes of assessing his ability to pay for his accommodation, the old rules shall continue to apply to him and his new protected amount shall, subject to sub-paragraphs (5) and (6), be the amount which he is assessed under the old rules as liable to pay for his accommodation.

(5) If the two assessments referred to in sub-paragraph (3) are carried out during the tax year 1994—1995, the resident's new protected amount determined in accordance with paragraph (4) shall be increased by 33 per cent of the difference between the charges determined in accordance with those two assessments unless those assessments are carried out before an order up-rating income support made under section 150 of the Administration Act has come into force during that tax year.

(6) If the two assessments referred to in sub-paragraph (3) are carried out during the tax year 1995—1996, the resident's new protected amount determined in accordance with paragraph (4) shall be increased by 66 per cent of the difference between the charges determined in accordance with those two assessments unless those assessments are carried out before an order up-rating income support made under section 150 of the Administration Act has come into force during that tax year, in which case the increase shall be 33 per cent of that difference.

(7) If the charge which a resident is assessed under the new rules as liable to pay for his accommodation in accordance with sub-paragraph (3) is equal to or lower than the charge which he

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is assessed as liable to pay under the old rules, the provisions of this Part of this Schedule shall cease to apply to that resident from the date of the increase in resources which led to those assessments.

9. Once a resident has been assessed as liable to pay a protected amount for his accommodation, if on any date—

(a) because of a reduction in his income or capital; or

(b) as a result of a redetermination of his protected amount in accordance with paragraph 7,

the charge that he would be liable to pay in accordance with the new rules exceeds his protected amount by less than £1 or is equal to or lower than his protected amount, the provisions of this Part of this Schedule shall cease to apply to him from that date.

10. Once a resident has been assessed as liable to pay a protected amount for his accommodation, if a local authority arranges different accommodation for him under Part III of the Act, the provisions of this Part of this Schedule shall, notwithstanding those different arrangements, continue to apply to him as if he had continued to live in the accommodation where he was first assessed in accordance with the provisions in this Part of this Schedule.

11. If a resident who has been assessed as liable to pay a protected amount for his accommodation is temporarily absent from his accommodation, a local authority shall continue to allow him to pay a protected amount for that accommodation on his return.