

SCHEDULE

Regulation 12

AMENDMENTS MADE CONSEQUENTIAL UPON THE CHILDREN ACT 1989

1. The provisions of the General Regulations shall be further amended in accordance with the paragraphs below, which make amendments consequential upon the Children Act 1989.(1)

2. In paragraph (3) of regulation 13(2)(circumstances in which persons in relevant education are to be entitled to income support) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

- “(a) any reference to a person acting in the place of an eligible person’s parents includes—
- (i) for the purposes of paragraph (2)(c), (d) and (dd), a reference to a local authority or voluntary organisation where the eligible person is being looked after by them under a relevant enactment or where the eligible person is placed by the local authority or voluntary organisation with another person, that other person, whether or not a payment is made to him;
 - (ii) for the purposes of paragraph (2)(e), the person with whom the person is so placed.”.

3. In regulation 16(3)(circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (4), for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) placed with the claimant or his partner by a local authority under section 23(2) (a) of the Children Act 1989 or by a voluntary organisation under section 59(1) (a) of that Act; or
- (b) placed with the claimant or his partner prior to adoption; or”;

(b) in paragraph (5), for sub-paragraphs (c) and (d) there shall be substituted the following sub-paragraphs—

- “(c) is being looked after by a local authority under a relevant enactment; or
- (d) has been placed with a person other than the claimant prior to adoption; or”;

(c) in paragraph (8)—

(i) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

- “(a) “relevant enactment” means the Army Act 1955(4), the Social Work (Scotland) Act 1968(5), the Matrimonial Causes Act 1973(6), the Adoption (Scotland) Act 1978(7), the Family Law Act 1986(8) and the Children Act 1989(9)

(ii) in sub-paragraph (b), for the words “Child Care Act 1980” there shall be substituted the words “Children Act 1989”.

(1) 1989 c. 41.

(2) The relevant amending instrument is S.I.1991/1559.

(3) The relevant amending instruments are S.I. 1988/663, 1989/534, 1990/547.

(4) 1955 c. 18. The provisions relating to reception orders were repealed as from 1st January 1992 by the Armed Forces Act 1991 (c. 62) but with savings (articles 2 and 3(1) of S.I. 1991/2719).

(5) 1968 c. 49.

(6) 1973 c. 18.

(7) 1978 c. 28.

(8) 1986 c. 55.

(9) 1989 c. 41.

Status: This is the original version (as it was originally made).

4. In regulation 41(10)(capital treated as income) in paragraph (3), for the words “section 1, 27 or 29 of the Child Care Act 1980” there shall be substituted the words “section 17 or 24 of the Children Act 1989”.

5. In regulation 48(11)(income treated as capital), for paragraph (8) there shall be substituted the following paragraph—

“(8) Any payment made by a local authority which represents arrears of payments under paragraph 15 of Schedule 1 to the Children Act 1989 (power of a local authority to make contributions to a person with whom a child lives as a result of a residence order) shall be treated as capital.”.

6. In Schedule 1 (persons not required to be available for employment) in paragraph 2, for the words “is boarded out” there shall be substituted the words “is placed” and for the words “Child Care Act 1980” there shall be substituted the words “Children Act 1989”.

7. In Schedule 1A(12)(circumstances in which a person aged 16 or 17 is eligible for income support)—

(a) in paragraph 7, in sub-paragraph (b) for the words “was in the care of a local authority under a relevant enactment and whilst in that care was not living with his parents or any close relative” there shall be substituted the words “was being looked after by a local authority pursuant to a relevant enactment who placed him with some person other than a close relative of his”;

(b) in paragraph 10, for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) any reference to a person acting in place of a registered person’s parents includes a reference—

(i) except in a case to which head (ii) applies, to any person with parental responsibility for the child, and for this purpose “parental responsibility” bears the meaning it has in the Children Act 1989 by virtue of section 3 of that Act; or

(ii) where the person is being looked after by a local authority or voluntary organisation who place him with a family, a relative of his, or some other suitable person, the person with whom the person is placed, whether or not any payment is made to him in connection with the placement; and”.

8. In Schedule 4 (applicable amounts of persons in residential care or nursing homes)—

(a) in paragraph 12(2)(d)(ii) for the words “section 1 of the Child Care Act 1980 (duty of local authorities to promote welfare of children)” there shall be substituted the words “section 20 of the Children Act 1989(13)(provision of accommodation for children: general)”;

(b) in paragraph 17, for the words “who is in the care of a local authority” there shall be substituted the words “who is being looked after by a local authority”.

9. In Schedule 9(14)(sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 25, in sub-paragraph (1) for heads (a) and (b) there shall be substituted the following heads—

(10) The relevant amending instruments are S.I. 1988/663, 1989/1034.

(11) There are no relevant amendments to paragraph (8).

(12) Schedule 1A was inserted by S.I. 1988/1228, and amended by S.I. 1989/1034, 1990/547, 1991/236, 1559.

(13) 1989 c. 41.

(14) The relevant amending instruments are S.I. 1988/663, 1445, 1989/1034.

- “(a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976⁽¹⁵⁾(permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978⁽¹⁶⁾(schemes for payment of allowances to adopters);
- (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order);”;
- (b) in paragraph 26—
 - (i) for the words “boarded out by virtue of arrangements made under section 21(1)(a) of the Child Care Act 1980” there shall be substituted the words “accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after)”;
 - (ii) for the words “section 61 of the 1980 Act” there shall be substituted the words “section 59(1)(a) of the 1989 Act (provision of accommodation by voluntary organisations)”;
- (c) in paragraph 28, for the words “under section 1, 27 or 29 of the Child Care Act 1980” there shall be substituted the words “in accordance with section 17 or 24 of the Children Act 1989”.

10. In Schedule 10⁽¹⁷⁾(capital to be disregarded) in paragraph 17, for the words “under section 1, 27 or 29 of the Child Care Act 1980”, there shall be substituted the words “in accordance with section 17 or 24 of the Children Act 1989”.

11. In so far as it is necessary to give effect in Scotland to a provision in the General Regulations amended in accordance with paragraph 2, 3, 5, 7, 8(b), 9(a) (in so far as it relates to paragraph 25(1) (b) of Schedule 9 to the General Regulations) or 9(b) of this Schedule, that provision shall have effect as if the amendment had not been made.

⁽¹⁵⁾ 1976 c. 36; section 57A was introduced by the Children Act 1989 (c. 41), Schedule 10, paragraph 25.

⁽¹⁶⁾ 1978 c. 28.

⁽¹⁷⁾ The relevant amending instruments are S.I. 1988/663 and 1989/1034.