

2001 No. 3767

SOCIAL SECURITY

**The Social Security Amendment (Residential Care and
Nursing Homes) Regulations 2001**

Made - - - - - 26th November 2001

Laid before Parliament 30th November 2001

Coming into force - - 8th April 2002

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 67(2), 72(8), 123(1)(a), 124(1)(e), 135(1), 136(2) and (5)(a) and (b), 137(1) and (2)(d) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) sections 4(5), 12(4)(a) and (b), 13(3), 35(1) and 36(1) and (2) of, and paragraph 1(2)(b) of Schedule 1 to, the Jobseekers Act 1995(b) and section 52(1) of the Health and Social Care Act 2001(c) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(d) hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 and shall come into force on 8th April 2002.

Amendments to regulations

2.—(1) The Income Support (General) Regulations 1987(e) shall be amended in accordance with Part I of the Schedule to these Regulations.

(2) The Jobseeker's Allowance Regulations 1996(f) shall be amended in accordance with Part II of the Schedule to these Regulations.

Amendment of the Social Security (Attendance Allowance) Regulations 1991

3. In the Social Security (Attendance Allowance) Regulations 1991(g)—

(a) in regulation 7 (persons in certain accommodation other than hospitals)—

(i) in paragraph (1), for the words “regulations 7A and 8” there shall be substituted “regulation 8”;

(a) 1992 c.4; section 137(2)(d) was inserted by paragraph 35(3) of Schedule 2 to the Jobseekers Act 1995 (c.18). Section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.

(b) Section 13(3) was amended by the Welfare Reform and Pensions Act 1999 (c.30), section 59 and paragraph 9(3) of Schedule 7. Section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(c) 2001 c.15.

(d) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992 (c. 5); paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.

(e) S.I.1987/1967.

(f) S.I.1996/207.

(g) S.I.1991/2740; the relevant amending instruments are S.I.1992/2869 and 3147, 1993/518, 1994/1779, 1995/2162, 1999/2860 and 2000/1401.

- (ii) paragraph (3)(b) (persons to whom regulations 7 and 8 apply, with modifications) shall be omitted;
- (iii) in paragraph (4)—
 - (aa) the words “Subject to paragraph (4A),” shall be omitted;
 - (bb) in sub-paragraph (b), the words “and at least 4 other persons in that house are provided with board and personal care, excluding persons carrying on the house or employed there or their relatives” shall be omitted; and
- (iv) paragraph (4A) shall be omitted;
- (b) regulation 7A shall be omitted;
- (c) the Schedule shall be omitted.

Amendment of the Social Security (Disability Living Allowance) Regulations 1991

- 4. In the Social Security (Disability Living Allowance) Regulations 1991(a)—
 - (a) in regulation 9 (persons in certain accommodation other than hospitals)—
 - (i) in paragraph (1), for the words “regulations 9A and 10” there shall be substituted “regulation 10”;
 - (ii) paragraph (4)(c) shall be omitted;
 - (iii) in paragraph (5)—
 - (aa) the words “Subject to paragraph (5A),” shall be omitted;
 - (bb) in sub-paragraph (b), the words “and at least 4 other persons in that home are provided with board and personal care, excluding persons carrying on the home or employed there or their relatives” shall be omitted; and
 - (iv) paragraph (5A) shall be omitted;
 - (b) regulation 9A (persons to whom regulations 9 and 10 apply with modifications) shall be omitted;
 - (c) Schedule 3 shall be omitted.

Signed by authority of the Secretary of State for Work and Pensions.

26th November 2001

Maria Eagle
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) S.I.1991/2890; the relevant amending instruments are S.I.1992/633, 2869 and 3147, 1993/518 and 1939, 1994/1779, 1995/2162, 1999/2860 and 2000/1401 and 3181.

PART I

AMENDMENTS TO THE INCOME SUPPORT (GENERAL) REGULATIONS 1987

1. In regulation 2 (interpretation)—
- (a) in paragraph (1)—
- (i) for the definition of “nursing home” and “residential care home” there shall be substituted the following definitions—
- ““nursing home” means—
- (a) premises which are a nursing home or mental nursing home within the meaning of the Registered Homes Act 1984(a) and which are either registered under Part II of that Act or exempt from registration under section 37 thereof (power to exempt Christian Science Homes); or
- (b) any premises used or intended to be used for the reception of such persons or the provision of such nursing or services as is mentioned in any paragraph of subsection (1) of section 21 or section 22(1) of the Registered Homes Act 1984 (meaning of nursing home or mental nursing home) or, in Scotland, as are mentioned in section 10(2) of the Nursing Homes Registration (Scotland) Act 1938(b) (interpretation) and which are maintained or controlled by a body instituted by special Act of Parliament or incorporated by Royal Charter;
- (c) in Scotland—
- (i) premises which are a nursing home within the meaning of section 10 of the Nursing Homes Registration (Scotland) Act 1938 which are either registered under that Act or exempt from registration under section 6 or 7 thereof (general power to exempt homes and power to exempt Christian Science Homes);
- (ii) premises which are a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984(c) (private hospitals), and which are registered under that Act;”;
- ““residential care home” means an establishment—
- (a) which is required to be registered under Part I of the Registered Homes Act 1984 and is so registered, or is deemed to be registered under section 2(3) of the Registered Homes (Amendment) Act 1991(d) (which refers to the registration of small homes where the application for registration has not been determined); or
- (b) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or
- (c) which provides residential accommodation with both board and personal care and is managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority; or
- (d) in Scotland, which is a home registered under section 61 of the Social Work (Scotland) Act 1968(e) or is an establishment provided by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988(f) which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968; or
- (e) which is exempt from registration under Part I of the Registered Homes Act 1984 pursuant to section 1(4)(a) of that Act (exemption from registration in respect of certain homes) because one or more of the residents are treated as relatives pursuant to section 19(4) of that Act;
- and in paragraph (c) of this definition, “personal care” means personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;”;
- (ii) in the definition of “residential accommodation”, the words “regulation 19 and” shall be omitted;
- (iii) the definition of “preserved right” shall be omitted;
- (b) after paragraph (1), there shall be inserted the following paragraph—

(a) 1984 c.23.

(b) 1938 c.73; section 10 was amended by section 15 of the Mental Health (Scotland) Act 1960 (c.61) and that amendment is preserved notwithstanding the repeal of that 1960 Act by section 126(1)(a) of the Mental Health (Scotland) Act 1984 (c.36). Section 10 was also amended by Schedule 7 to the National Health Service (Scotland) Act 1972 (c.58), Schedules 7 and 8 of the Nurses, Midwives and Health Visitors Act 1979 (c.36) and by Schedule 7 to the Health Services Act 1980 (c.53) and subsection (2) of that section 10 was added by section 26 of, and paragraph 14 of Schedule 4 to, the Health Services Act 1980.

(c) 1984 c.36.

(d) 1991 c.20.

(e) 1968 c.49; section 61 was amended by the Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289C and 289G and Schedule 7C.

(f) 1988 c.43.

“(1A) For the purposes of these Regulations, where a person’s principal place of residence is a residential care home or a nursing home and he is temporarily absent from that home, he shall be regarded as continuing to reside in that home—

(a) where he is absent because he is a patient, for the first six weeks of any such period of absence and for this purpose—

(i) “patient” has the meaning it has in Schedule 7 by virtue of regulation 21(3); and

(ii) periods of absence separated by not more than 28 days shall be treated as a single period of absence equal in duration to all those periods; and

(b) for the first three weeks of any other period of absence.”.

2. For regulation 6(4)(d)(a) (persons not treated as in remunerative work), there shall be substituted the following sub-paragraph—

“(d) a person who is in employment, who lives in, or is temporarily absent from, a residential care home, a nursing home or residential accommodation and who requires personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness.”.

3. In regulation 17(4)(a)(iii) (applicable amounts), for “(d)” there shall be substituted “(c)”.

4. In regulation 18(1)(b) (polygamous marriages), for the words “regulations 19” there shall be substituted the words “regulations 21”.

5. Regulation 19 (applicable amounts for persons in residential care and nursing homes) shall be omitted.

6. In regulation 21 (special cases)—

(a) in paragraph (1), after the words “Subject to” there shall be inserted the words “paragraph (1B),”;

(b) after paragraph (1A) there shall be inserted the following paragraph—

“(1B) An amount shall only be applicable under paragraph 10A, 10B, 10C or 13 of Schedule 7 where an amount was applicable to a person under any of those paragraphs on 7th April 2002 and shall only continue to be applicable to that person after that date for so long as the relevant conditions in column (1) of that Schedule continue to apply to him.”;

(c) in paragraph (3A)(c) the words “within the meaning of regulation 19 (applicable amounts for persons in residential care and nursing homes)” shall be omitted.

7. In regulation 22A(1)(d) (reduction in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work), sub-paragraph (b) shall be omitted.

8. In regulation 51(notional capital)—

(a) in paragraph (3)(a)(ii)(e)—

(i) for the words “is payable,” there shall be substituted the words “is payable or”;

(ii) the words “or accommodation charge to the extent that it is met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

9. In regulation 53(1C)(a)(i)(f) (calculation of tariff income from capital), the words “in the case of a claimant referred to in regulation 19(2) or” shall be omitted.

10. In regulation 66B(3)(g) (treatment of payments from access funds)—

(a) for the words “, any housing costs” there shall be substituted the words “or any housing costs”;

(b) the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

11. In regulation 68(3)(h) (income treated as capital)—

(a) for the words “, any housing costs” there shall be substituted the words “or any housing costs”;

(b) the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

12. In regulation 71 (applicable amounts in urgent cases)—

(a) paragraph (1)(b) shall be omitted;

(a) Regulation 6(4) was added by S.I. 2000/681.

(b) The relevant amending instrument is S.I.1988/1228.

(c) Paragraph (3A) was inserted by S.I.1991/1656.

(d) Regulation 22A was added by S.I.1996/206.

(e) The relevant amending instruments are S.I.1988/1445, 1989/534 and 1991/1559.

(f) Regulation 53(1C) was inserted by S.I.1996/462.

(g) Regulation 66B was inserted by S.I. 2000/1922.

(h) Regulation 68(3) was inserted by S.I. 2000/1922.

- (b) in paragraph (1)(c), after the words “applicable amount shall” there shall be inserted the words “, subject to paragraph (1A),”;
- (c) after paragraph (1) there shall be inserted the following paragraph—
“(1A) Paragraph (1)(c) shall only apply where the claimant was resident in residential accommodation on 7th April 2002 and shall only continue to apply to that claimant after that date for so long as he continues to be resident in such accommodation.”.
- 13.** In regulation 73 (amount of income support payable)—
- (a) in paragraph (3), in “A”, the words “subject to paragraph (4),” shall be omitted;
- (b) paragraphs (2), (4) and (5) shall be omitted.
- 14.** In paragraph 2A of Schedule 2(a) (applicable amounts: residential allowance)—
- (a) in sub-paragraph (1), after the word “shall” there shall be inserted the words “,subject to sub-paragraph (6),”;
- (b) in sub-paragraph (2)—
- (i) for “(3), (4) and (4A)” there shall be substituted “(3) and (4)”;
- (ii) in paragraph (a), the words “or is regarded pursuant to sub-paragraph (4A) as residing in such a home” shall be omitted;
- (iii) paragraph (b) shall be omitted;
- (c) in sub-paragraph (3), for the words “for the purposes of regulation 19” there shall be substituted the words “within the meaning of regulation 2(1)”;
- (d) sub-paragraph (4A) shall be omitted;
- (e) after sub-paragraph (5) there shall be added the following sub-paragraph—
“(6) An amount shall only be applicable under this paragraph where an amount was applicable to a person under this paragraph on 7th April 2002 and shall only continue to be applicable to that person after that date for so long as he continues to satisfy the conditions specified in sub-paragraph (2).”.
- 15.** In paragraph 3(13)(c)(iii) of Schedule 3(b) (housing costs), for the words “regulation 19(3) (provision of residential care or nursing homes)” there shall be substituted the words “regulation 2(1)”.
- 16.** Schedule 4 (applicable amounts of persons in residential care and nursing homes) shall be omitted.
- 17.** In Schedule 7 (applicable amounts in special cases)—
- (a) in column (1) of paragraph 10A(c) for the words “(d) (excluding heads (i) and (ii) of sub-paragraph (d))” there shall be substituted “(c)”;
- (b) in paragraph 10B(1)(d)—
- (i) in column (1), for the words “(d) (excluding heads (i) and (ii) of sub-paragraph (d))” there shall be substituted “(c)”;
- (ii) in column (2), “, 19” shall be omitted;
- (c) in column (2) of paragraph 11(e), “or 19” shall be omitted in both places where it appears;
- (d) in column (2) of paragraph 11A(f), “, 19” shall be omitted in both places where it appears;
- (e) in column (2) of paragraph 13A, in sub-paragraph (3A)(g), for the words from “the aggregate” to the end of the sub-paragraph, there shall be substituted “£16.05”;
- (f) paragraph 16 shall be omitted;
- (g) in column (2) of paragraph 16A(h) “19 or” shall be omitted in both places where it appears;
- (h) paragraph 18 shall be omitted.
- 18.** In Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 4(2), (3)(a)(ii) and (4)(a)(i), the words “or in accommodation in a residential care home or nursing home” shall be omitted;
- (b) in paragraph 15(a)(j), the words “, or but for his accommodation in a residential care home or nursing home would be,” shall be omitted.

-
- (a) Paragraph 2A was inserted by S.I.1992/3147.
- (b) Schedule 3 was substituted by S.I.1995/1613.
- (c) Paragraph 10A was inserted by S.I.1988/663.
- (d) Paragraph 10B was inserted by S.I.1988/663.
- (e) The relevant amending instrument is S.I.1989/534.
- (f) Paragraph 11A was inserted by S.I.1990/547.
- (g) Paragraph 13A was inserted by S.I.1989/1678; paragraph (3A) was inserted by S.I.1995/516.
- (h) Paragraph 16A was inserted by S.I. 2000/636.
- (i) Paragraph 4 was substituted by S.I.1989/534.
- (j) The relevant amending instrument is S.I.1989/534.

- 19.** In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 9(a), the words “Part I of Schedule 4 or” shall be omitted;
 - (b) in paragraph 15(b)—
 - (i) in sub-paragraph (2)—
 - (aa) for the words “sub-paragraphs (3) and (6)” there shall be substituted the words “sub-paragraph (3)”;
 - (bb) for the words “housing benefit is payable,” there shall be substituted the words “housing benefit is payable or”;
 - (cc) the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted;
 - (ii) sub-paragraph (6) shall be omitted;
 - (c) paragraph 15A(3)(c) shall be omitted;
 - (d) for paragraph 15B(1)(a)(d) there shall be substituted the following sub-paragraph—

“(a) is a person to whom paragraph 13A or 13B of Schedule 7 (applicable amounts in special cases) applies;”;
 - (e) in paragraph 30(1)(e), for the words “increased, where appropriate, in accordance with paragraph 2 of Schedule 4 exceeds the amount determined in accordance with regulation 19 (residential care and nursing homes) or” there shall be substituted the word “exceeds”;
 - (f) in paragraph 30A(e)—
 - (i) in sub-paragraph (2), the words “, or whose applicable amount falls to be calculated in accordance with regulation 19” shall be omitted;
 - (ii) for sub-paragraph (3)(a), there shall be substituted the following—

“(a) the claimant’s applicable amount; and”;
 - (g) in paragraph 59(2)(f), the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted;
 - (h) in paragraph 69(2)(g), the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.
- 20.** In paragraph 56(2) of Schedule 10(h) (capital to be disregarded), the words “or any accommodation charges to the extent that they are met under regulation 19 (persons in residential care or nursing homes)” shall be omitted.

PART II

AMENDMENTS TO THE JOBSEEKER’S ALLOWANCE REGULATIONS 1996

- 1.** In regulation 1 (interpretation)—
- (a) in paragraph (3), the definition of “preserved rights” shall be omitted;
 - (b) after paragraph (3E), there shall be inserted the following paragraph—

“(3F) For the purposes of these Regulations, where a person’s principal place of residence is a residential care home or a nursing home and he is temporarily absent from that home, he shall be regarded as continuing to reside in that home—

 - (a) where he is absent because he is a patient, for the first six weeks of any such period of absence and for this purpose—
 - (i) “patient” has the meaning it has in Schedule 5 by virtue of regulation 85; and
 - (ii) periods of absence separated by not more than 28 days shall be treated as a single period of absence equal in duration to all those periods; and
 - (b) for the first three weeks of any other period of absence.”.
- 2.** For regulation 53(c) (persons not treated as engaged in remunerative work) there shall be substituted the following paragraph—
- “(c) he is in employment, lives in, or is temporarily absent from, a residential care home, a nursing home or residential accommodation and requires personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness;”.

-
- (a) Paragraph 9 was substituted by S.I.1993/518 and amended by S.I.1995/2203.
 - (b) The relevant amending instruments are S.I.1991/1559, 1993/2119 and 1994/527.
 - (c) Paragraph 15A was inserted by S.I.1993/518.
 - (d) Paragraph 15B was inserted by S.I.1996/606.
 - (e) Paragraph 30A was inserted by S.I.1993/2119.
 - (f) Paragraph 59 was inserted by S.I.1997/65.
 - (g) Paragraph 69 was inserted by S.I.1999/2165.
 - (h) Paragraph 56 was inserted by S.I.1999/2165.

3. In regulation 82(a) (income-based jobseeker's allowance)—
 - (a) in paragraph (1), for “86” there shall be substituted “85”;
 - (b) in paragraph (2), for “86D” there shall be substituted “86C”.
4. In regulation 83 (applicable amounts), “or 86” shall be omitted.
5. In regulation 84(1) (polygamous marriages), for “85” there shall be substituted “or 85” and the words “or 86” and “and for those in residential care and nursing homes” shall be omitted.
6. In regulation 85 (special cases)—
 - (a) at the beginning of paragraph (1), there shall be inserted the words “subject to paragraph (2A),”;
 - (b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) An amount shall only be applicable under paragraph 7, 8, 9 or 15 of Schedule 5 where an amount was applicable to a person under any of those paragraphs on 7th April 2002 and shall only continue to be applicable to that person after that date for so long as the relevant conditions in column (1) of that Schedule continue to apply to him.”.
7. Regulation 86 (applicable amounts for persons in residential care and nursing homes) shall be omitted.
8. In both regulations 86A (applicable amounts for joint-claim couples) and 86B(b) (applicable amounts for joint-claim couples: polygamous marriages), for “, 86C” there shall be substituted “or 86C” and the words “or 86D (members of joint-claim couples in residential care and nursing homes)” shall be omitted.
9. In regulation 86C (joint-claim couples: special cases)—
 - (a) at the beginning of paragraph (1), there shall be inserted the words “Subject to paragraph (2A),”;
 - (b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) An amount shall only be applicable under paragraph 6 or 9 of Schedule 5A where an amount was applicable to a joint-claim couple under either of those paragraphs on 7th April 2002 and shall only continue to be applicable to that couple after that date for so long as the relevant conditions in column (1) of that Schedule continue to apply to that couple.”.
10. Regulation 86D (applicable amount for a joint-claim couple where a member is in residential care or a nursing home) shall be omitted.
11. In regulation 113 (notional capital)—
 - (a) in paragraph (3)(a)(ii)—
 - (i) for the words “is payable,” there shall be substituted the words “is payable”;
 - (ii) the words “or accommodation charge to the extent that it is met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.
12. For regulation 116(1C)(a)(c) (calculation of tariff income from capital) there shall be substituted the following sub-paragraph—

“(a) from a home or accommodation referred to in sub-paragraph (a), (b) or (d) of paragraph (1B) for a period not exceeding 13 weeks;”.
13. In regulation 136A(3)(d) (treatment of payments from access funds)—
 - (a) for the words “, any housing costs” there shall be substituted the words “or any housing costs”;
 - (b) the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.
14. In regulation 138(3)(e) (income treated as capital)—
 - (a) for the words “, any housing costs” there shall be substituted the words “or any housing costs”;
 - (b) the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.
15. In regulation 148 (applicable amounts in urgent cases)—
 - (a) paragraph (1)(b) shall be omitted;
 - (b) in paragraph (1)(c), after the words “applicable amount shall” there shall be inserted the words “, subject to paragraph (1A),”;
 - (c) after paragraph (1), there shall be inserted the following paragraph—

(a) Regulation 82 was substituted by S.I. 2000/1978.
 (b) Regulations 86A and 86B were inserted by S.I. 2000/1978.
 (c) Regulation 116(1C) was inserted by S.I.1996/1516.
 (d) Regulation 66B was inserted by S.I. 2000/1922.
 (e) Regulation 68(3) was inserted by S.I. 2000/1922.

“(1A) Paragraph (1)(c) shall only apply where the claimant was resident in residential accommodation on 7th April 2002 and shall only continue to apply to that claimant after that date for so long as he continues to be resident in such accommodation.”.

16. In regulation 148(a) (applicable amount in urgent cases: joint-claim couples)—
 - (a) paragraph (1)(b) shall be omitted;
 - (b) in paragraph (1)(c), after the words “applicable amount shall” there shall be inserted the words “, subject to paragraph (1A).”;
 - (c) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Paragraph (1)(c) shall only apply where the member of the joint-claim couple was resident in residential accommodation on 7th April 2002 and shall only continue to apply to that couple after that date for so long as that member continues to be resident in such accommodation.”.
17. Regulation 151 (amount of jobseeker’s allowance payable where a person is in a residential care or nursing home) shall be omitted.
18. In paragraph 3 of Schedule 1 (applicable amounts: residential allowance)—
 - (a) in sub-paragraph (1), after the word “shall” there shall be inserted the words “, subject to sub-paragraph (7).”;
 - (b) in sub-paragraph (2)—
 - (i) for “(3), (4) and (5)” there shall be substituted “(3) and (4)”;
 - (ii) in paragraph (a), the words “or is regarded pursuant to sub-paragraph (5) as residing in such a home” shall be omitted;
 - (iii) paragraph (c) shall be omitted;
 - (c) sub-paragraph (5) shall be omitted;
 - (d) after sub-paragraph (6) there shall be added the following sub-paragraph—

“(7) An amount shall only be applicable under this paragraph where an amount was applicable to a person under this paragraph on 7th April 2002 and shall only continue to be applicable to that person after that date for so long as he continues to satisfy the conditions specified in sub-paragraph (2).”
19. Schedules 4 (applicable amounts of persons in residential care and nursing homes) and 4A (applicable amount of a joint-claim couple where a member is in a residential care or nursing home) shall be omitted.
20. In Schedule 5 (applicable amounts in special cases)—
 - (a) in column (2) of paragraph 8(1), for “, 85 or 86” there shall be substituted “or 85”;
 - (b) in column (2) of paragraph 10, “or 86” shall be omitted in both places where it appears;
 - (c) in column (2) of paragraph 11, “or 86” shall be omitted in both places where it appears;
 - (d) in column (2) of paragraph 13A(b), “or 86” shall be omitted in both places where it appears;
 - (e) paragraphs 16 and 17 shall be omitted.
21. In Schedule 5A(c) (applicable amounts of joint-claim couples in special cases)—
 - (a) in column (2) of paragraph 6(1), for “, 85 or 86” there shall be substituted “or 85”;
 - (b) in column (2) of paragraph 7, both “or 86D” (in both places where it appears) and “or 86” shall be omitted;
 - (c) in column (2) of paragraph 8, for “86D”, in both places where it appears, there shall be substituted “86C”;
 - (d) paragraphs 10 and 11 shall be omitted.
22. In Schedule 6 (sums to be disregarded in the calculation of earnings)—
 - (a) in paragraph 5(2), (3)(a)(ii) and (4)(a), the words “or in accommodation in a residential care home or nursing home” shall be omitted;
 - (b) in paragraph 18(a), the words “, or but for his accommodation in a residential care home or nursing home would be,” shall be omitted.
23. In paragraph 1(2), (3)(a)(ii) and (4)(a) of Schedule 6A(d) (sums to be disregarded in the calculation of earnings of members of joint-claim couples) the words “or in accommodation in a residential care home or nursing home” shall be omitted.
24. In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
 - (a) in paragraph 10, the words from “, but, where” to the end of the paragraph shall be omitted;

(a) Regulation 148A was inserted by S.I. 2000/1978.

(b) Paragraph 13A was inserted by S.I. 2000/636.

(c) Schedule 5A was inserted by S.I. 2000/1978.

(d) Schedule 6A was inserted by S.I. 2000/1978.

- (b) in paragraph 15—
 - (i) in sub-paragraph (2)—
 - (aa) for the words “sub-paragraphs (3) and (6)” there shall be substituted the words “sub-paragraph (3)”;
 - (bb) for the words “housing benefit is payable,” there shall be substituted the words “housing benefit is payable or”;
 - (cc) the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted;
 - (ii) sub-paragraph (6) shall be omitted;
- (c) paragraph 16(3) shall be omitted;
- (d) paragraph 16A(a) shall be omitted;
- (e) in paragraph 31(1)(e), for the words “increased, where appropriate, in accordance with paragraph 2 of Schedule 4 exceeds the amount determined in accordance with regulation 86 (residential care and nursing homes) or” there shall be substituted the word “exceeds”;
- (f) in paragraph 32—
 - (i) in sub-paragraph (2), the words “, or whose applicable amount falls to be calculated in accordance with regulation 86” shall be omitted;
 - (ii) for sub-paragraph (3)(a), there shall be substituted the following—
 - “(a) the claimant’s applicable amount; and”;
- (g) in paragraph 57(2)(b), the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted;
- (h) in paragraph 67(2)(c), the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

25. In paragraph 51(2) of Schedule 8(d) (capital to be disregarded), the words “or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes)” shall be omitted.

(a) Paragraph 16A was inserted by S.I.1996/1517.
 (b) Paragraph 57 was inserted by S.I.1997/65.
 (c) Paragraph 67 was inserted by S.I.1999/2165.
 (d) Paragraph 51 was inserted by S.I.1999/2165.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 and the Schedule to these Regulations (except as referred to below) amend the Income Support (General) Regulations 1987 (S.I.1987/1967) and the Jobseeker's Allowance Regulations 1996 (S.I.1996/207) so as to provide, in accordance with the Health and Social Care Act 2001 (c.15), that the special amounts which are applicable to those persons in residential care homes and nursing homes who have preserved rights, shall no longer be applicable from 8th April 2002. That regulation and the Schedule also make consequential amendments.

Paragraph 14 of Part I of the Schedule and paragraph 18 of Part II of the Schedule amend the rules as to when a residential allowance is applicable in income support and jobseeker's allowance to those residing in a residential care home or a nursing home.

Regulations 3 and 4 respectively amend the Social Security (Attendance Allowance) Regulations 1991 (S.I.1991/2740) and the Social Security (Disability Living Allowance) Regulations 1991 (S.I.1991/2890) so as to remove the separate provision in respect of payment of attendance allowance and the care component of disability living allowance for those persons in residential care homes and nursing homes with preserved rights. These amendments have also been made as a consequence of the Health and Social Care Act 2001.

These Regulations do not impose a charge on business.

2001 No. 3767

SOCIAL SECURITY

**The Social Security Amendment (Residential Care and
Nursing Homes) Regulations 2001**

£2.50

© Crown copyright 2001

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1923 11/2001 674065 19585

ISBN 0-11-038890-9



9 780110 388908