
Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

STATUTORY INSTRUMENTS

2005 No. 2687

SOCIAL SECURITY

The Social Security (Care Homes and Independent Hospitals) Regulations 2005

Made - - - - *24th September 2005*
Laid before Parliament *30th September 2005*
Coming into force - - *24th October 2005*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 67(2)(a) and (b), 72(8)(a) and (b), 123(1)(a), (d) and (e), 130(2) and (4), 135(1) and (2), 136(2), (3), (4) and (5), 136A(2), (3) and (4)^{M1}, 137(1), 137(2)(h) and (i), 138(1)(a), (2) and (4), and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992^{M2}, sections 1(1C)^{M3}, 5(1)(p), 5(6)^{M4} and 189(4) and (5) of the Social Security Administration Act 1992^{M5}, sections 4(5) and (12), 12(1), (2) and (4)(a), 20(4), 20B(4)^{M6}, 35(1) and 36(1) and (2) of and paragraphs 1(2)(b), 8, 8A^{M7}, 10(1) and (2) and 12 of Schedule 1 to the Jobseekers Act 1995^{M8}, section 122(5) of the Housing Act 1996^{M9}, sections 62(4)(c), 63(4)(c) and 65(1) of the Child Support, Pensions and Social Security Act 2000^{M10}, sections 7(4)(c), 8(4)(c) and 11(1) of the Social Security Fraud Act 2001^{M11}, sections 2(3)(b), 6(1), 15(2) and (6)(b) and 17(2)(a) of the State Pension Credit Act 2002^{M12} 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^{M13}, makes the following Regulations:

Marginal Citations

- M1** Section 136A was inserted for the purpose only of exercising power to make regulations by paragraph 3 of Schedule 2 of the [State Pension Credit Act 2002](#) (c. 16).
- M2** 1992 c. 4.
- M3** Section 1C was inserted by section 19 of the [Social Security Administration \(Fraud\) Act 1997](#) (c. 47).
- M4** Section 5(6) was inserted by section 120 of the [Housing Act 1996](#) (c. 52).
- M5** 1992 c. 5.
- M6** Section 20B was inserted by section 59 of the [Welfare Reform and Pensions Act 1999](#) (c. 30).
- M7** Paragraph 8A was inserted by section 59 of the [Welfare Reform and Pensions Act 1999](#).
- M8** 1995 c. 18.
- M9** 1996. c52.
- M10** 2000 c. 19.
- M11** 2001 c. 11.

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

M12 [2002 c. 16.](#)

M13 [See sections 170 and 173\(1\)\(b\) of the Social Security Administration Act 1992 \(c. 5\).](#)

Citation and commencement

1. These Regulations shall be cited as the Social Security (Care Homes and Independent Hospitals) Regulations 2005 and shall come into force on 24th October 2005.

Amendment of the Income Support (General) Regulations 1987

2. The Income Support (General) Regulations 1987 ^{M14} shall be amended in accordance with Schedule 1 to these Regulations.

Marginal Citations

M14 [S.I. 1987/1967.](#)

Amendment of the Jobseeker's Allowance Regulations 1996

3. The Jobseeker's Allowance Regulations 1996 ^{M15} shall be amended in accordance with Schedule 2 to these Regulations.

Marginal Citations

M15 [S.I. 1996/207.](#)

Amendment of the Housing Benefit (General) Regulations 1987

4.—(1) The Housing Benefit (General) Regulations 1987 ^{M16} shall be amended in accordance with Schedule 3 to these Regulations.

(2) The amendments made by paragraphs 1(a)(ii), 6(a) and (b) and 8 of Schedule 3 to these Regulations are to the Housing Benefit (General) Regulations 1987 as modified in their application to persons to whom regulation 2 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 ^{M17} applies.

Marginal Citations

M16 [S.I. 1987/ 1971.](#)

M17 [S.I. 2003/325.](#)

Amendment of the Council Tax Benefit (General) Regulations 1992

5.—(1) The Council Tax Benefit (General) Regulations 1992 ^{M18} shall be amended in accordance with Schedule 4 to these Regulations.

(2) The amendments made by paragraphs 1(a), 3(a) and (b) and (4) of Schedule 4 to these Regulations are to the Council Tax Benefit (General) Regulations 1992 as modified in their application to persons to whom regulation 12 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 applies.

Marginal Citations

M18 [S.I. 1992/1814](#).

Amendment of the State Pension Credit Regulations 2002

6. The State Pension Credit Regulations 2002^{M19} shall be amended in accordance with Schedule 5 to these Regulations.

Marginal Citations

M19 [S.I. 2002/1792](#).

Revocation of the Income Support and Jobseeker's Allowance (Amounts for Persons in Residential Care and Nursing Homes) Regulations 2001

7. The Income Support and Jobseeker's Allowance (Amounts for Persons in Residential Care and Nursing Homes) Regulations 2001^{M20} are hereby revoked.

Marginal Citations

M20 [S.I. 2001/1785](#).

Amendment of the Social Fund Winter Fuel Payment Regulations 2000

8.—(1) The Social Fund Winter Fuel Payment Regulations 2000^{M21} shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2)—

(i) omit the definitions of “nursing home” and “residential accommodation”;

(ii) at the appropriate places insert the following definitions— “care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000^{M22}, and in Scotland means a care home service as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001^{M23}; ”

““independent hospital” has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;”;

(b) in paragraph (3)^{M24}—

(i) omit “Subject to paragraph (3A),”;

(ii) in sub-paragraph (a) for heads (i) to (iii) substitute—

“(i) a care home;

(ii) an independent hospital; or”;

(c) omit paragraph (3A).

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

Marginal Citations

- M21** S.I. 2000/729. Relevant amending instruments are S.I. 2000/2864, 2001/3375, 2003/1121 and 2004/2154.
- M22** 2000 c. 14.
- M23** 2001asp.8.
- M24** Paragraph (3) was substituted by S.I. 2001/3375.

Amendment of the Social Fund Cold Weather Payments (General) Regulations 1988

9.—(1) The Social Fund Cold Weather Payments (General) Regulations 1988 ^{M25} shall be amended in accordance with this regulation.

- (2) In regulation 1A (prescribed descriptions of persons) ^{M26}—
- (a) in paragraph (1)—
- (i) for “paragraph (3)” substitute “ paragraph (2) ”;
- (ii) in sub-paragraph (ib) omit “and is not resident in a care home”;
- (b) for paragraphs (2) and (3) substitute—
- “(2) Paragraph (1)(i), (ia) and (ib) shall not apply to a person who resides in—
- (a) a care home;
- (b) an independent hospital;
- (c) an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or
- (d) accommodation provided under section 3(1) of, and Part 2 of the Schedule to, the Polish Resettlement Act 1947 ^{M27} (provision by the Secretary of State of accommodation in camps).
- (3) In paragraph (2)—
- (a) “care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001;
- (b) “independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001.”.

Marginal Citations

- M25** S.I. 1988/1724.
- M26** Regulation 1A was inserted by S.I. 1991/2448; relevant amending instruments are S.I. 1996/2544, 2002/3019 and 2003/1121.
- M27** 1947 c. 19.

Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations 1987

10.—(1) The Social Fund Maternity and Funeral Expenses (General) Regulations 1987 ^{M28} shall be amended in accordance with this regulation.

- (2) In paragraph (1A) of regulation 3 (interpretation) ^{M29}—

- (a) in sub-paragraph (a), for “residential accommodation, residential care home or nursing home” substitute “ care home, Abbeyfield Home or independent hospital ”; and
- (b) in sub-paragraph (b) and at the end of paragraph (1A), for “accommodation or home” substitute “ home or hospital ”.

Marginal Citations

M28 [S.I. 1987/481](#).

M29 Paragraph (1A) of regulation 3 was inserted by [S.I. 1996/1443](#) and amended by [S.I. 1997/792](#).

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

11.—(1) The Social Security (Disability Living Allowance) Regulations 1991 ^{M30} shall be amended in accordance with this regulation.

(2) In regulation 9 (persons in certain accommodation other than hospitals) ^{M31}—

- (a) in paragraph (6)(c) for “residential homes” substitute “ independent hospitals or care homes ”;
- (b) after paragraph (6) add the following paragraph—

“(7) In paragraph (6)—

“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;

“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001.”.

Marginal Citations

M30 [S.I. 1991/2890](#).

M31 Relevant amending instrument is [S.I. 2002/208](#).

Amendment of the Social Security (Attendance Allowance) Regulations 1991

12.—(1) The Social Security (Attendance Allowance) Regulations 1991 ^{M32} shall be amended in accordance with this regulation.

(2) In regulation 7 (persons in certain accommodation other than hospitals) ^{M33}—

- (a) in paragraph (5)(c) for “residential homes” substitute “ independent hospitals or care homes ”;
- (b) after paragraph (5) insert the following paragraph—

“(6) In paragraph (5)—

“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;

“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001.”.

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

Marginal Citations

M32 S.I. 1991/2740.

M33 Relevant amending instrument is S.I. 2002/208.

Amendment of the Social Security (Claims and Payments) Regulations 1987

13.—(1) The Social Security (Claims and Payments) Regulations 1987^{M34} shall be amended in accordance with this regulation.

(2) Omit regulation 35A (transitional provisions for persons in hostels or certain residential accommodation)^{M35}.

(3) In Schedule 9 (deductions from benefit and direct payment to third parties)—

(a) in sub-paragraph (1) of paragraph 1 (interpretation), for the definition of “hostel”^{M36} substitute—

““hostel” means a building—

(a) in which there is provided for persons generally, or for a class of persons, accommodation, otherwise than in separate and self-contained premises, and either board or facilities of a kind set out in paragraph 4A(1)(d) below adequate to the needs of those persons and—

(b) which is—

(i) managed by or owned by a housing association registered with the Housing Corporation established by the Housing Act 1964^{M37};

(ii) managed or owned by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988^{M38};

(iii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or a local authority; or

(iv) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community, and

(c) which is not—

(i) a care home;

(ii) an independent hospital; or

(iii) an establishment run by the Abbeyfield Society including all bodies corporate or incorporated which are affiliated to that Society, and

(d) in sub-paragraph (b)(iv) above, “voluntary organisation” shall mean a body the activities of which are carried out otherwise than for profit, but shall not include any public or local authority;”;

(b) in paragraph 4 (miscellaneous accommodation costs)^{M39}—

(i) in sub-paragraph (1)—

(aa) in head (a), for “in a residential care home or nursing home” substitute “residing in a care home, an Abbeyfield Home or an independent hospital”;

(bb) omit head (b)(i) and (iii);

(ii) in head (a) of sub-paragraph (2) omit—

“(i) as specified in sub-paragraph (1)(b)(i) or (iii); or
(ii) ”.

Marginal Citations

M34 [S.I. 1987/1968](#).

M35 [Regulation 35A](#) was inserted by [S.I. 1989/1686](#).

M36 The definition of “hostel” was inserted by [S.I. 1991/2284](#) and amended by [S.I. 2002/398](#).

M37 [1964 c. 56](#).

M38 [1988 c53](#).

M39 Relevant amending instruments are [S.I. 1989/136](#), [1992/3147](#), [1996/1460](#), [1999/3178](#), [2002/398](#) and [2003/2325](#).

Amendment of the Social Security (Breach of Community Order) Regulations 2001

14.—(1) The Social Security (Breach of Community Order) Regulations 2001 ^{M40} shall be amended in accordance with this regulation.

(2) In paragraph (4) of regulation 6 (meaning of “person in hardship”), for “residential care home or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”.

(3) In paragraph (4) of regulation 12 (meaning of “couple in hardship”) for “residential care or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”.

Marginal Citations

M40 [S.I. 2001/1395](#).

Amendment of the Social Security (Loss of Benefit) Regulations 2001

15.—(1) The Social Security (Loss of Benefit) Regulations 2001 ^{M41} shall be amended in accordance with this regulation.

(2) In paragraph (4) of regulation 5 (meaning of “person in hardship”) for “residential care home or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”.

(3) In paragraph (5) of regulation 11 (application of Part and meaning of “couple in hardship”) for “residential care or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”.

Marginal Citations

M41 [S.I. 2001/4022](#).

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

James Plaskitt
Parliamentary Under Secretary of State,
Department for Work and Pensions

24th September 2005

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

SCHEDULE 1

Regulation 2

AMENDMENT OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987

1. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) omit the definitions of “nursing home”, “residential accommodation”^{M42} and “residential care home”^{M43};

(ii) at the appropriate places insert the following definitions—

““Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;

“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;”;

(b) in paragraph (1A) ^{M44} from “residential care home” to “reside in that home” substitute “care home, an Abbeyfield Home or an independent hospital and he is temporarily absent from that home or hospital, he shall be regarded as continuing to reside in that home or hospital ”.

Marginal Citations

M42 The definition of “residential accommodation” was substituted by [S.I. 1988/1445](#) and amended by [S.I. 1989/534](#) and [2001/3767](#).

M43 The definitions of “nursing home” and “residential care home” were substituted by [S.I. 2001/3767](#); relevant amending instrument is [S.I. 2005/2078](#).

M44 Paragraph (1A) was inserted by [S.I. 2001/3767](#) and amended by [S.I. 2003/1195](#).

2. For paragraph (4)(d) of regulation 6 (persons not treated as engaged in remunerative work) ^{M45} substitute—

“(d) a person who—

(i) is in employment;

(ii) lives in, or is temporarily absent from, a care home, an Abbeyfield Home or an independent hospital; and

(iii) 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.”.

Marginal Citations

M45 Paragraph (4) was inserted by [S.I. 2000/681](#) and sub-paragraph (d) was substituted by [S.I. 2001/3767](#).

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

(a) in paragraph (3)(e) for “in residential accommodation or a residential care home or a residential nursing home” substitute “residing in a care home, an Abbeyfield Home or an independent hospital”;

(b) in paragraph (5)(b) ^{M46} omit “provided under any of the provisions referred to in any of sub-paragraphs (a) to (d) (excluding heads (i) and (ii) of sub-paragraph (d)) of the definition of residential accommodation in regulation 21(3)”;

(c) in paragraph (8) before sub-paragraph (a) insert—

“(za) “accommodation” means accommodation provided by a local authority in a home owned or managed by that local authority—

(i) under sections 21 to 24 of the National Assistance Act 1948 ^{M47} (provision of accommodation),

(ii) in Scotland, under section 13B or 59 of the Social Work (Scotland) Act 1968 ^{M48} (provision of residential or other establishment), or

(iii) under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 ^{M49} (care and support services etc.),

where the accommodation is provided for a person whose stay in that accommodation has become other than temporary;”.

Marginal Citations

M46 Relevant amending instruments are [S.I. 1988/663](#), 1989/534 and 1996/206.

M47 1948 c. 29.

M48 1968 c. 49.

M49 2003 asp.13.

4. For paragraph (4)(a)(iii) ^{M50} of regulation 17 (applicable amounts) substitute—

“(iii) in a care home, an Abbeyfield Home or an independent hospital; or”.

Marginal Citations

M50 Relevant amending instrument is [S.I. 2001/3767](#).

5. In regulation 21 (special cases)—

(a) in paragraph (3) omit the definition of “residential accommodation” ^{M51};

(b) omit paragraphs (3A) to (3E) ^{M52} and (4) ^{M53} to (4B) ^{M54}.

Marginal Citations

M51 The definition of “residential accommodation” was substituted by [S.I. 1992/3147](#); relevant amending instruments are [S.I. 1994/2139](#), 1995/516 and 2005/2078.

M52 Paragraph (3A) was inserted by [S.I. 1991/1656](#) and amended by [S.I. 1996/2614](#) and 2001/3767. Paragraph (3B) was inserted by [S.I. 1993/518](#) and amended by [S.I. 1995/516](#). Paragraph (3C) was inserted by [S.I. 1993/518](#) and amended by [S.I. 1993/2119](#). Paragraph (3D) was inserted by [S.I. 1994/2139](#). Paragraph (3E) was inserted by [S.I. 1994/2139](#) and amended by [S.I. 2005/2078](#).

M53 Paragraph (4) was amended by [S.I. 1992/3147](#) and 1995/516.

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

M54 Paragraph (4A) was inserted by [S.I. 1992/2155](#) and amended by [S.I. 1992/3147](#). Paragraph (4B) was inserted by [S.I. 1993/518](#).

6. In paragraph (4A) of regulation 42 (notional income) ^{M55} for “lives in a residential care home or a nursing home, or is temporarily absent from such a home” substitute “ resides in a care home, an Abbeyfield Home or an independent hospital, or is temporarily absent from such a home or hospital ”.

Marginal Citations

M55 Paragraph (4A) was inserted by [S.I. 1994/527](#) and amended by [S.I. 2003/455](#).

7. In regulation 53 (calculation of tariff income from capital)—

- (a) in paragraph (1B) ^{M56}—
 - (i) for sub-paragraphs (a) and (b) substitute—
 - “(a) a care home or an independent hospital;
 - (b) an Abbeyfield Home;”;
 - (ii) omit sub-paragraph (d);
- (b) in paragraph (1C) ^{M57}—
 - (i) after “home” in both places insert “ , hospital ”;
 - (ii) in sub-paragraph (a) for “, (b) or (d)” substitute “ or (b) ”;
- (c) omit paragraph (4) ^{M58}.

Marginal Citations

M56 Paragraph (1B) was inserted by [S.I. 1996/462](#) and amended by [S.I. 1997/65](#) and 1997/2197.

M57 Paragraph (1C) was inserted by [S.I. 1996/462](#) and amended by [S.I. 1997/65](#) and 2001/3767.

M58 Paragraph (4) was inserted by [S.I. 1996/462](#).

8. In Schedule 3 (housing costs) ^{M59}—

- (a) for sub-paragraph (13)(c) of paragraph 3 (circumstances in which a person is to be treated as occupying a dwelling as his home) ^{M60} substitute—
 - “(c) “residential accommodation” means accommodation which is a care home, an Abbeyfield Home or an an independent hospital;”;
- (b) in sub-paragraph (1)(b) of paragraph 4 (housing costs not met) for “in accommodation which is a residential care home or a nursing home except where he is in such accommodation” substitute “ living in care home, an Abbeyfield Home or an independent hospital except where he is living in such a home or hospital ”.

Marginal Citations

M59 [Schedule 3](#) was substituted by [S.I. 1995/1613](#).

M60 Sub-paragraph 13(c) of paragraph 3 was amended by [S.I. 2001/3767](#).

9. For sub-paragraph (4) of paragraph 7 (protected persons) of Schedule 3A (protected sum) ^{M61} substitute—

- “(4) Paragraph 6(b) shall not apply to a protected person if—

- (a) he moves to accommodation where he—
 - (i) satisfies condition (i) or (iii) of sub-paragraph (1)(b);
 - (ii) is receiving both board and personal care other than in a care home or an independent hospital;
- (b) he becomes a patient within the meaning of regulation 21(3);
- (c) on his ceasing to be a patient within the meaning of regulation 21(3) either—
 - (i) he returns to the accommodation which he occupied immediately before he became a patient; or
 - (ii) he moves to other accommodation where he—
 - (aa) satisfies condition (i) or (iii) of sub-paragraph (1)(b); or
 - (bb) is receiving both board and personal care other than in a care home or an independent hospital; or
- (d) in a case to which sub-paragraph (6) applies, on his becoming re-entitled to income support, he is in—
 - (i) the accommodation which he occupied immediately before he ceased to be entitled to income support; or
 - (ii) accommodation where he—
 - (aa) satisfies condition (i) or (iii) of sub-paragraph (1)(b); or
 - (bb) is receiving both board and personal care other than in a care home or an independent hospital.”.

Marginal Citations

M61 Schedule 3A was inserted by S.I. 1988/1455. Sub-paragraph (4) of paragraph 7 was amended by S.I. 1988/2022.

10. In Schedule 7 (applicable amounts in special cases)—

- (a) in paragraph 9 (specified cases of temporarily separated couples)^{M62} at column (1)—
 - (i) in sub-paragraph (a) for heads (i) and (ii) substitute—

“(i) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or”;
 - (ii) in sub-paragraph (b) for heads (iii) and (iv) substitute—

“(iii) residing in a care home, an Abbeyfield Home or an independent hospital.”;
- (b) in paragraph 10 (polygamous marriages where one or more partners are temporarily separated)^{M63} at column (1) for sub-paragraphs (a) and (b) substitute—
 - “(a) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or”.

Marginal Citations

M62 Column 1 of paragraph 9 was amended by S.I. 1989/1678.

M63 Column 1 of paragraph 10 was amended by S.I. 1988/663 and 1991/236.

11. In sub-paragraphs (2), (3)(a)(ii) and (4)(a) of paragraph 4 of Schedule 8 (sums to be disregarded in the calculation of earnings)^{M64} omit “or in residential accommodation”.

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

Marginal Citations

M64 Paragraph 4 was substituted by S.I. 1989/534. Sub-paragraphs (2), (3)(a)(ii) and (4)(a) were amended by S.I. 2001/3767.

12. In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 15A ^{M65}—
 - (i) in sub-paragraph (1) for “residential care home or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”;
 - (ii) in sub-paragraph (2)(a) for “residential care or nursing home” substitute “ care home, Abbeyfield Home or independent hospital ” and after “the home” insert “ or hospital ”;
 - (b) in paragraph 30A ^{M66}—
 - (i) in sub-paragraph (1) for “in a residential care home or nursing home” substitute “ residing in a care home, an Abbeyfield Home or an independent hospital ” and after “in that home” add “ or hospital ”;
 - (ii) in sub-paragraph (2) for “residential care home or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”;
 - (c) in paragraph 66 ^{M67} for “in a residential care or nursing home” substitute “ living in a care home, an Abbeyfield Home or an independent hospital ”.

Marginal Citations

M65 Paragraph 15A was inserted by S.I. 1993/518 and was amended by S.I. 1995/516 and 2005/2078.

M66 Paragraph 30A was inserted by S.I. 1993/2119 and was amended by S.I. 2001/3767.

M67 Paragraph 66 was inserted by S.I. 1998/2117; relevant amending instrument S.I. 2000/681.

13. In paragraph 64 ^{M68} of Schedule 10 (capital to be disregarded) in sub-paragraph (5) for “being in residential accommodation, a residential care home or a nursing home” substitute “ residing in a care home, an Abbeyfield Home or an independent hospital ”.

Marginal Citations

M68 Paragraph 64 was inserted by S.I. 2001/1118.

SCHEDULE 2

Regulation 3

AMENDMENT OF THE JOBSEEKER'S ALLOWANCE REGULATIONS 1996

1. In regulation 1 (citation, commencement and interpretation)—
- (a) in paragraph (3)—
 - (i) omit the definitions of “nursing home”, “residential accommodation” and “residential care home”; and
 - (ii) at the appropriate places insert the following definitions—

““Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;

“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;”;

- (b) in paragraph (3F) ^{M69} from “residential care home” to “reside in that home” substitute “care home, an Abbeyfield Home or an independent hospital and he is temporarily absent from that home or hospital, he shall be regarded as continuing to reside in that home or hospital ”.

Marginal Citations

M69 Paragraph (3F) was inserted by [S.I. 2001/3767](#) and amended by [S.I. 2003/1195](#).

2. For paragraph (c) of regulation 53 (persons treated as not engaged in remunerative work) ^{M70} substitute—

- “(c) a person who—
- (i) is in employment;
 - (ii) lives in, or is temporarily absent from a care home, an Abbeyfield Home or an independent hospital; and
 - (iii) 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.”.

Marginal Citations

M70 Paragraph (c) was substituted by [S.I. 2001/3767](#).

3. In regulation 78 (circumstances in which a person is to be treated as being or not being a member of the household)—

- (a) in paragraph (3)(d) for “in residential accommodation or a residential care home or a nursing home” substitute “residing in a care home, an Abbeyfield Home or an independent hospital ”;
- (b) in paragraph (5)(c) omit “provided under any of the provisions referred to in any of the sub-paragraphs (a) to (c) of the definition of residential accommodation in regulation 85”;
- (c) in paragraph (9) before sub-paragraph (a) insert—
 - “(za) “accommodation” means accommodation provided by a local authority in a home owned or managed by that local authority—
 - (i) under sections 21 to 24 of the National Assistance Act 1948 (provision of accommodation); or

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

- (ii) in Scotland, under section 13B or 59 of the Social Work (Scotland) Act 1968 (provision of residential or other establishment); or
- (iii) under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support services etc.);

where the accommodation is provided for a person whose stay in that accommodation has become other than temporary;”.

4. In regulation 85 (special cases)—
- (a) in paragraph (3) ^{M71} for—
 - (i) “paragraphs 1 and 17” substitute “ paragraph 1 ”;
 - (ii) “residential care or nursing homes” substitute “ care homes, Abbeyfield Homes or independent hospitals ”;
 - (b) in paragraph (4) omit the definition of “residential accommodation”; and
 - (c) omit paragraphs (5) and (6).

Marginal Citations

M71 Paragraph (3) was amended by [S.I. 2003/455](#).

5. In paragraph (11) of regulation 105 (notional income) ^{M72} for “lives in a residential care home or a nursing home, or is temporarily absent from such a home” substitute “ resides in a care home, an Abbeyfield Home or an independent hospital, or is temporarily absent from such a home or hospital ”.

Marginal Citations

M72 Paragraph (11) was amended by [S.I. 2003/455](#).

6. In regulation 116 (calculation of tariff income from capital)—
- (a) in paragraph (1B) ^{M73} —
 - (i) for sub-paragraphs (a) and (b) substitute—
 - “(a) a care home or an independent hospital;
 - (b) an Abbeyfield Home;”;
 - (ii) omit sub-paragraph (d);
 - (b) in paragraph (1C) ^{M74} —
 - (i) after “home” in both places insert “ , hospital ”;
 - (ii) in sub-paragraph (a) for “, (b) or (d)” substitute “ or (b) ”;
 - (c) omit paragraph (4) ^{M75}.

Marginal Citations

M73 Paragraph (1B) was inserted by [S.I. 1996/1516](#) and amended by [S.I. 1997/65](#) and 1997/2197.

M74 Paragraph (1C) was inserted by [S.I. 1996/1516](#) and amended by [S.I. 2001/3767](#).

M75 Paragraph (4) was inserted by [S.I. 1996/1516](#).

7. In paragraph (4) of regulation 140 (meaning of “person in hardship”) for “residential care home or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”.

8. In paragraph (4) of regulation 146A (meaning of “couple in hardship”) ^{M76} for “residential care or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”.

Marginal Citations

M76 Regulation 146A was inserted by S.I. 2000/1978.

9. In Schedule 2 (housing costs)—

(a) for sub-paragraph (13)(c) of paragraph 3 (circumstances in which a person is to be treated as occupying a dwelling as his home) substitute—

“(c) “residential accommodation” means accommodation which is a care home, an Abbeyfield Home or an independent hospital;”;

(b) in sub-paragraph (1)(b) in paragraph 4 (housing costs not met) ^{M77} for “in accommodation which is a residential care home or a nursing home except where he is in such accommodation” substitute “ living in a care home, an Abbeyfield Home or an independent hospital except where he is living in such a home or hospital ”.

Marginal Citations

M77 Sub-paragraph (1)(b) of paragraph 4 was amended by S.I. 2000/1978.

10. In Schedule 5 (applicable amounts in special cases)—

(a) in paragraph 5 (specified cases of temporarily separated couples) at column (1)—

(i) in sub-paragraph (a), for heads (i) and (ii) substitute—

“(i) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or”;

(ii) in sub-paragraph (b), for heads (iii) and (iv) substitute—

“(iii) residing in a care home, an Abbeyfield Home or an independent hospital.”;

(b) in paragraph 6 (polygamous marriages where one or more partners are temporarily separated) at column (1), for sub-paragraphs (a) and (b) substitute—

“(a) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or”;

11. In Schedule 5A (applicable amounts of joint-claim couples in special cases) ^{M78}—

(a) in paragraph 4 (specified cases of temporarily separated joint-claim couples) at column (1)—

(i) in sub-paragraph (a), for heads (i) and (ii) substitute—

“(i) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or”;

(ii) in sub-paragraph (b), for heads (iii) and (iv) substitute—

“(iii) residing in a care home, an Abbeyfield Home or an independent hospital.”;

(b) in paragraph 5 (polygamous marriages where one or more members of the marriage are temporarily separated) at column (1) for sub-paragraphs (a) and (b) substitute—

“(a) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or”.

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

Marginal Citations

M78 [Schedule 5A](#) was inserted by [S.I. 2000/1978](#).

12. In paragraph 5 of Schedule 6 (sums to be disregarded in the calculation of earnings) ^{M79} in sub-paragraphs (2), (3)(a)(ii) and (4)(a) omit “or in residential accommodation”.

Marginal Citations

M79 Relevant amending instrument is [S.I. 2001/3767](#).

13. In paragraph 1 of Schedule 6A (sums to be disregarded in the calculation of earnings of members of joint-claim couples) ^{M80} in sub-paragraphs (2), (3)(a)(ii) and (4)(a) omit “or in residential accommodation”.

Marginal Citations

M80 [Schedule 6A](#) was inserted by [S.I. 2000/1978](#). Paragraph 1 was amended by [S.I. 2000/2545](#) and [2001/3767](#).

14. In Schedule 7 (sums to be disregarded in the calculation of income other than earnings) ^{M81}—

- (a) in paragraph 16—
 - (i) in sub-paragraph (1), for “residential care home or nursing home” substitute “ care home, an Abbeyfield Home or independent hospital ”;
 - (ii) in sub-paragraph (2)(a), for “residential care or nursing home” substitute “ care home, Abbeyfield Home or independent hospital ” and after “ the home” add “ or hospital ”;
- (b) in paragraph 32—
 - (i) in sub-paragraph (1), for “in a residential care home or nursing home” substitute “ residing in a care home, an Abbeyfield Home or an independent hospital ” and after “in that home” add “ or hospital ”;
 - (ii) in sub-paragraph (2), for “residential care home or nursing home” substitute “ care home, an Abbeyfield Home or an independent hospital ”;
- (c) in paragraph 64 for “in a residential care or nursing home” substitute “ residing in a care home, an Abbeyfield Home or an independent hospital ”.

Marginal Citations

M81 [Paragraph 16](#) was amended by [S.I. 2001/3767](#) and [2005/2078](#), [paragraoh 32](#) was amended by [S.I. 2001/3767](#) and [paragraph 64](#) was inserted by [S.I. 1998/2117](#).

15. In paragraph 57 of Schedule 8 (capital to be disregarded) ^{M82} in sub-paragraph (5) for “being in residential accommodation, a residential care home or a nursing home” substitute “ residing in a care home, an Abbeyfield Home or an independent hospital ”.

Marginal Citations

M82 Paragraph 57 was inserted by S.I. 2001/1118.

SCHEDULE 3

Regulation 4

AMENDMENT OF THE HOUSING BENEFIT (GENERAL) REGULATIONS 1987

1. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of “hostel”^{M83} substitute—

““hostel” means a building—

(a) in which there is provided for persons generally or for a class of persons, domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both and—

(b) which is—

(i) managed or owned by a registered housing association; or

(ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or

(iii) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community; and

(c) which is not—

(i) a care home;

(ii) an independent hospital; or

(iii) an Abbeyfield Home;”;

(ii) omit the definitions of “care home” and “care home service”^{M84};

(iii) at the appropriate places insert the following definitions—

““Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000^{M85} and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001^{M86};

“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000 and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;”.

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

Marginal Citations

M83 Definition of hostel was inserted by [S.I. 1999/2401](#).

M84 These definitions were inserted, in relation to any claimant who has attained the qualifying age for state pension credit, by [S.I. 2003/325](#).

M85 [2000 c. 14](#).

M86 2001 asp8.

2. In paragraph (9) of regulation 5^{M87} (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), for the definition of “residential accommodation” substitute—

““residential accommodation” means accommodation which is provided in—

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield Home; or
- (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;”.

Marginal Citations

M87 Paragraph (9) was amended by [S.I. 1995/625](#) and by [S.I. 1992/3147](#).

3. In regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling)—

- (a) omit “except where paragraph (2) applies,” from sub-paragraph (1)(k);
- (b) omit paragraph (2);
- (c) for paragraph (3) substitute—

“(3) In this regulation “residential accommodation” means accommodation which is provided in—

- (a) a care home; or
- (b) an independent hospital;”;
- (d) omit paragraphs (4) to (12)^{M88}.

Marginal Citations

M88 Paragraphs (4) to (12) were inserted by [S.I. 1992/3147](#).

4. In regulation 8 (eligible housing costs)—

- (a) for paragraph (2)^{M89} substitute—

“(2) Subject to paragraph (3), housing benefit shall not be payable in respect of payments made by a person on income support or an income-based jobseeker’s allowance whose applicable amount for that benefit includes an amount in respect of those payments.”;

- (b) omit paragraphs (2ZA) and (2ZB)^{M90}.

Marginal Citations

M89 Paragraph (2) was amended by [S.I.1992/3147](#) and by [S.I. 1996/1510](#).

M90 Paragraphs (2ZA) and (2ZB) were inserted by [S.I. 1993/518](#).

5. In paragraph (8) of regulation 12A ^{M91} (requirement to refer to rent officers), omit the definitions of “nursing home” and “residential care home”.

Marginal Citations

M91 Paragraph 12A was inserted by [S.I. 1990/546](#).

6. In paragraph (5) ^{M92} of regulation 25 (meaning of income)—

(a) for sub-paragraph (b) substitute—

“(b) in an Abbeyfield Home;”;

(b) for sub-paragraph (d) substitute—

“(d) in an independent hospital.”.

Marginal Citations

M92 Paragraph (5) was inserted, in relation to any claimant who has attained the qualifying age for state pension credit, by [S.I. 2003/325](#).

7. In regulation 45 (calculation of tariff income from capital)—

(a) for paragraph (1B) ^{M93} substitute—

“(1B) For the purposes of paragraph (1A), the prescribed circumstances are that the claimant—

(a) occupies residential accommodation as his home; or

(b) is a person—

(i) to whom on 3rd October 2005 paragraph (2) of regulation 7 as in force on that date applied; or

(ii) to whom on 3rd October 2005, paragraph (5) or paragraph (7) of regulation 7 as in force on that date applied and continues to apply;”;

(b) in paragraph (4) ^{M94}—

(i) for sub-paragraph (c), substitute “ which is an Abbeyfield Home ”;

(ii) for “and in this definition, “board” has the same meaning as in regulation 8(2)(b)” substitute—

“and in this definition “board” refers to the availability to the claimant in the home in which his accommodation is provided of cooked or prepared food, where the food is made available to him in consequence solely of his paying the charge for the accommodation or any other charge which he is required to pay as a condition of occupying the accommodation, or both those charges and is made available for his consumption without any further charge to him;”;

(c) for paragraph (5) ^{M95} substitute—

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

“(5) Paragraph (4) shall not apply to residential accommodation of the type referred to in sub-paragraphs (a) to (c) of paragraph (4) where such accommodation is residential accommodation for the purpose of regulation 7 unless the claimant is a person to whom paragraphs 10, 11 or 12 of Schedule 3 to the Social Security (Care Homes and Independent Hospitals) Regulations 2005 apply.”.

Marginal Citations

M93 Paragraph (1B) was inserted by [S.I.1996/462](#).

M94 Paragraph (4) was inserted by [S.I. 1996/462](#).

M95 Paragraph (5) was inserted by [S.I. 1996/462](#).

8. In paragraph 14(5) of Schedule 5ZA ^{M96} (capital to be disregarded) for “being in a care home” substitute “residing in a care home or an independent hospital”.

Marginal Citations

M96 [Schedule 5ZA](#) was inserted, in relation to any person who has attained the qualifying age for state pension credit, by [S.I. 2003/325](#).

9. In Schedule 5 (Capital to be disregarded)—

- (a) in paragraph 66(5) ^{M97} for “being in residential accommodation, a residential care home or a nursing home” substitute “residing in a care home, an Abbeyfield Home or an independent hospital”;
- (b) in paragraph 66(6) omit the definitions of “residential accommodation”, “residential care home” and “nursing home”.

Marginal Citations

M97 [Paragraph 66](#) was inserted by [S.I. 2001/1118](#).

Transitional arrangements and savings for housing benefit

10.—(1) Sub-paragraph (2) shall apply to a person who, on 3rd October 2005 was a person to whom paragraph (2) of regulation 7 of the Housing Benefit Regulations as in force on that date applied.

(2) Where this paragraph applies—

- (a) paragraph (2) of regulation 7 of those Regulations shall continue to have effect as if paragraph 3(a) and (b) of Schedule 3 to these Regulations had not been made;
- (b) paragraph (3) of regulation 7 of those Regulations shall continue to have effect as if sub-paragraph 3(c) of Schedule 3 to these Regulations had not been made;
- (c) sub-paragraph (1B)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(a) of Schedule 3 to these Regulations had not been made;
- (d) sub-paragraph (5)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(c) of Schedule 3 to these Regulations had not been made.

(3) In this paragraph and in paragraphs 11 and 12 of Schedule 3, the “Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987.

11.—(1) Sub-paragraph (2) shall apply to a person who, on 3rd October 2005, was a person to whom paragraph (5) of regulation 7 of the Housing Benefit Regulations as in force on that date applied.

(2) Where this sub-paragraph applies—

- (a) paragraphs (4), (5), (8), (9) and (10) of regulation 7 of the Housing Benefit Regulations shall continue to have effect as if paragraph 3(d) of Schedule 3 to these Regulations had not been made;
- (b) paragraph (3) of regulation 7 of those Regulations shall continue to have effect as if sub-paragraph 3(c) of Schedule 3 to these Regulations had not been made;
- (c) sub-paragraph (1B)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(a) of Schedule 3 to these Regulations had not been made;
- (d) sub-paragraph (5)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(c) of Schedule 3 to these Regulations had not been made.

12.—(1) Sub-paragraph (2) shall apply to a person who, on 3rd October 2005, was a person to whom paragraph (7) of regulation 7 of the Housing Benefit Regulations as in force on that date applied.

(2) Where this sub-paragraph applies—

- (a) paragraphs (6), (7), (8), (9), (10), (11) and (12) of regulation 7 of those Regulations shall continue to have effect as if paragraph 3(d) of Schedule 3 to these Regulations had not been made;
- (b) paragraph (3) of regulation 7 of those Regulations shall continue to have effect as if sub-paragraph 3(c) of Schedule 3 to these Regulations had not been made;
- (c) sub-paragraph (1B)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(a) of Schedule 3 to these Regulations had not been made;
- (d) sub-paragraph (5)(b) of regulation 45 of those Regulations shall continue to have effect as if paragraph 7(c) of Schedule 3 to these Regulations had not been made.

SCHEDULE 4

Regulation 5

AMENDMENT OF THE COUNCIL TAX BENEFIT (GENERAL) REGULATIONS 1992

1. In regulation 2 (interpretation)—

- (a) omit the definitions of “care home” and “care home service”^{M98};
- (b) at the appropriate places insert the following definitions—

““Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000 ^{M99} and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Scotland Act 2001 ^{M100};

“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000 and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;”.

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

Marginal Citations

- M98** These definitions were inserted, in relation to any claimant who has attained the qualifying age for state pension credit, by [S.I. 2003/325](#).
- M99** [2000 c. 14](#).
- M100** 2001 asp8.

2. In paragraph (6) of regulation 4C ^{M101} (circumstances in which a person is or is not treated as occupying a dwelling as his home) for the definition of “residential accommodation” substitute—
- ““residential accommodation” means accommodation which is provided—
- (a) in a care home;
 - (b) in an independent hospital;
 - (c) in an Abbeyfield Home; or
 - (d) in an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;”.

Marginal Citations

- M101** [Regulation 4C](#) was added by [S.I. 1995/625](#).

3. In paragraph (5) ^{M102} of regulation 17 (meaning of income)—
- (a) for sub-paragraph (b) substitute—
 - “(b) in an Abbeyfield Home;”;
 - (b) for sub-paragraph (d) substitute—
 - “(d) in an independent hospital.”.

Marginal Citations

- M102** Paragraph (5) was inserted, in relation to any claimant who has attained the qualifying age for state pension credit, by [S.I. 2003/325](#).

4. In paragraph 14(5) of Schedule 5ZA ^{M103} (capital to be disregarded) for “being in a care home” substitute “residing in a care home or an independent hospital”.

Marginal Citations

- M103** [Schedule 5ZA](#) was inserted, in relation to any person who has attained the qualifying age for state pension credit, by [S.I. 2003/325](#).

5. In Schedule 5 (capital to be disregarded)—
- (a) in paragraph 66(5) ^{M104} for “being in residential accommodation, a residential care home or a nursing home” substitute “residing in a care home, an Abbeyfield Home or an independent hospital”;
 - (b) in paragraph 66(6) omit the definitions of “residential accommodation”, “residential care home” and “nursing home”.

Marginal Citations

M104 Paragraph 66 was inserted by S.I. 2001/1118.

SCHEDULE 5

Regulation 6

AMENDMENT OF THE STATE PENSION CREDIT REGULATIONS 2002

1. In paragraph (2) of regulation 1 (citation, commencement and interpretation) at the appropriate place insert the following definition— “independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;”.

2. In paragraph (1)(b) of regulation 5 (persons treated as being or not being members of the same household) after “care home” insert “ or an independent hospital ”.

3. In paragraph (c) of regulation 12 (end of assessed income period) after “care home” insert “ or an independent hospital ”.

4. For paragraph (7)(d) of regulation 15 (income for purposes of the Act) ^{M105} substitute—
“(d) in an independent hospital;”.

Marginal Citations

M105 Paragraph (7)(d) of regulation 15 was amended by S.I. 2005/2078.

5. In Schedule 2 (housing costs)—

(a) in paragraph 4 (circumstances in which a person is to be treated as occupying a dwelling as his home)—

(i) in sub-paragraph (7)(c)(iii), after “care home” insert “ or an independent hospital ”;

(ii) for sub-paragraph (8) substitute—

“(8) This sub-paragraph applies to a person who enters a care home or an independent hospital—

(a) for the purpose of ascertaining whether that care home or independent hospital suits his needs, and

(b) with the intention of returning to the dwelling which he normally occupies as his home should, in the event that, the care home or independent hospital prove not to suit his needs,

and while in the care home or independent hospital, the part of the dwelling which he normally occupies as his home is not let, or as the case may be, sub-let to another person.”.

(iii) in sub-paragraph (9) for “accommodation” in both places substitute “ care home or independent hospital ”;

(iv) in sub-paragraph (11)(c), at heads (iii), (vii) and (ix) after “care home” insert “ or an independent hospital ”;

(b) in paragraph 5(1)(b) after “care home” insert “ or an independent hospital ”.

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

6. In paragraph 13(5) of Schedule 5 (capital disregarded for the purpose of calculating income) for “being in a care home” substitute “residing in a care home or an independent hospital”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to social security legislation that are consequential upon the introduction of a new regulatory system in England and Wales of “care homes” and “independent hospitals” by the Care Standards Act 2000 (c. 14) and, in Scotland, of “care home services” and “independent health care services” by the Regulation of Care (Scotland) Act 2001 (asp8). This has replaced the previous system of regulation of residential care homes and nursing homes, as provided for by the Registered Homes Act 1984 (c. 23) in England and Wales, and, in Scotland by the Nursing Homes Registration (Scotland) Act 1938 (c. 73) and the Social Work (Scotland) Act 1968 (c. 49). The new systems also require the registration of care homes provided by local authorities, which were previously unregulated.

The Regulations therefore replace references in social security legislation to terms describing these establishments, which were based on the old regulatory systems, with new terms in line with the current regulatory systems.

These Regulations make amendments to the following sets of regulations—

- (i) The Income Support (General) Regulations 1987 (S.I. 1987/1967) (at regulation 2 and Schedule 1);
- (ii) The Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) (at regulation 3 and Schedule 2);
- (iii) The Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) (at regulation 4 and Schedule 3);
- (iv) The Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) (at regulation 5 and Schedule 4);
- (v) The State Pension Credit Regulations 2002 (S.I. 2002/1792) (at regulation 6 and Schedule 5);
- (vi) The Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729) (at regulation 8);
- (vii) The Social Fund Cold Weather Payments (General) Regulations 1988 (S.I. 1988/1724) (at regulation 9);
- (viii) The Social Fund Maternity and Funeral Expenses (General) Regulations 1987 (S.I. 1987/481) (at regulation 10);
- (ix) The Social Security (Disability Living Allowance) Regulations 1991 (S.I. 1991/2890) (at regulation 11);
- (x) The Social Security (Attendance Allowance) Regulations 1991 (S.I. 1991/2740) (at regulation 12);
- (xi) The Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) (at regulation 13);
- (xii) The Social Security (Breach of Community Order) Regulations 2001 (S.I. 2001/1395) (at regulation 14); and
- (xiii) The Social Security (Loss of Benefit) Regulations 2001 (S.I. 2001/4022) (at regulation 15).

Status: Point in time view as at 24/10/2005.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005. (See end of Document for details)

Paragraphs 10 to 12 of Schedule 3 to the Regulations make transitional provision to preserve the existing transitional protection provided to a closed category of housing benefit claimants in certain types of residential accommodation.

The Regulations also revoke the Income Support and Jobseeker's Allowance (Amounts for Persons in Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/1785) which, due to the amendments made by the Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), are obsolete (at regulation 7).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

Status:

Point in time view as at 24/10/2005.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Care Homes and Independent Hospitals) Regulations 2005.