

STATUTORY INSTRUMENTS

2005 No. 2687

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

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 ^{M1} shall be amended in accordance with Schedule 1 to these Regulations.

Marginal Citations

M1 [S.I. 1987/1967](#).

Amendment of the Jobseeker's Allowance Regulations 1996

3. The Jobseeker's Allowance Regulations 1996 ^{M2} shall be amended in accordance with Schedule 2 to these Regulations.

Marginal Citations

M2 [S.I. 1996/207](#).

Amendment of the Housing Benefit (General) Regulations 1987

^{F1}4.

Textual Amendments

F1 [Reg. 5](#) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006](#) (S.I. 2006/217), reg. 1(1), **Sch. 1** (with regs. 2, 3, Sch. 3, 4)

Amendment of the Council Tax Benefit (General) Regulations 1992

^{F1}5.

Textual Amendments

- F1** Reg. 5 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Sch. 3, 4)

Amendment of the State Pension Credit Regulations 2002

6. The State Pension Credit Regulations 2002 ^{M3} shall be amended in accordance with Schedule 5 to these Regulations.

Marginal Citations

- M3** [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 ^{M4} are hereby revoked.

Marginal Citations

- M4** [S.I. 2001/1785](#).

Amendment of the Social Fund Winter Fuel Payment Regulations 2000

8.—(1) The Social Fund Winter Fuel Payment Regulations 2000 ^{M5} 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 ^{M6}, and in Scotland means a care home service as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 ^{M7}; ”
““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) ^{M8}—

- (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).

Marginal Citations

- M5** S.I. 2000/729. Relevant amending instruments are S.I. 2000/2864, 2001/3375, 2003/1121 and 2004/2154.
- M6** 2000 c. 14.
- M7** 2001asp.8.
- M8** 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^{M9} shall be amended in accordance with this regulation.

(2) In regulation 1A (prescribed descriptions of persons)^{M10}—

(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^{M11} (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

- M9** S.I. 1988/1724.
- M10** Regulation 1A was inserted by S.I. 1991/2448; relevant amending instruments are S.I. 1996/2544, 2002/3019 and 2003/1121.
- M11** 1947 c. 19.

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

^{F2}10.

Textual Amendments

- F2** [Reg. 10](#) revoked (5.12.2005) by [The Social Fund Maternity and Funeral Expenses \(General\) Regulations 2005 \(S.I. 2005/3061\)](#), reg. 1, [Sch.](#)

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

11.—(1) The Social Security (Disability Living Allowance) Regulations 1991 ^{M12} shall be amended in accordance with this regulation.

- (2) In regulation 9 (persons in certain accommodation other than hospitals) ^{M13}—
- (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

M12 [S.I. 1991/2890](#).

M13 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 ^{M14} shall be amended in accordance with this regulation.

- (2) In regulation 7 (persons in certain accommodation other than hospitals) ^{M15}—
- (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.”.

Marginal Citations

M14 [S.I. 1991/2740](#).

M15 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^{M16} shall be amended in accordance with this regulation.

(2) Omit regulation 35A (transitional provisions for persons in hostels or certain residential accommodation)^{M17}.

(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”^{M18} 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^{M19};

(ii) managed or owned by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988^{M20};

(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)^{M21}—

(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

M16 S.I. 1987/1968.

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)

- M17** Regulation 35A was inserted by S.I. 1989/1686.
- M18** The definition of “hostel” was inserted by S.I. 1991/2284 and amended by S.I. 2002/398.
- M19** 1964 c. 56.
- M20** 1988 c53.
- M21** 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 ^{M22} 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
M22 S.I. 2001/1395.

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

15.—(1) The Social Security (Loss of Benefit) Regulations 2001 ^{M23} 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
M23 S.I. 2001/4022.

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

24th September 2005

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

Changes to legislation:

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