

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)(1) 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”.
2. For paragraph (c) of regulation 53 (persons treated as not engaged in remunerative work)(2) 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.”.
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

(1) Paragraph (3F) was inserted by S.I.2001/3767 and amended by S.I. 2003/1195.

(2) Paragraph (c) was substituted by S.I. 2001/3767.

*Status: This is the original version (as it was originally made).*

- (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)(3) 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).

**5.** In paragraph (11) of regulation 105 (notional income)(4) 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”.

**6.** In regulation 116 (calculation of tariff income from capital)—

(a) in paragraph (1B)(5)—

(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)(6)—

- (i) after “home” in both places insert “, hospital”;
- (ii) in sub-paragraph (a) for “, (b) or (d)” substitute “or (b)”;

(c) omit paragraph (4)(7).

**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”)(8) for “residential care or nursing home” substitute “care home, an Abbeyfield Home or an independent hospital”.

**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)(9) for “in accommodation which is a residential care home or a nursing home except where he is in such

---

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

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

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

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

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

(8) Regulation 146A was inserted by S.I. [2000/1978](#).

(9) Sub-paragraph (1)(b) of paragraph 4 was amended by S.I. [2000/1978](#).

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”.

**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)(**10**)—

(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”.

**12.** In paragraph 5 of Schedule 6 (sums to be disregarded in the calculation of earnings)(**11**) in sub-paragraphs (2), (3)(a)(ii) and (4)(a) omit “or in residential accommodation”.

**13.** In paragraph 1 of Schedule 6A (sums to be disregarded in the calculation of earnings of members of joint-claim couples)(**12**) in sub-paragraphs (2), (3)(a)(ii) and (4)(a) omit “or in residential accommodation”.

**14.** In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)(**13**)—

(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—

---

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

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

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

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

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

- (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”.
- 15.** In paragraph 57 of Schedule 8 (capital to be disregarded)(**14**) 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”.

---

(14) Paragraph 57 was inserted by S.I. [2001/1118](#).