

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”(1) 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”(2);

(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(3) 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(4);

“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 (9) of regulation 5(5) (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;

(1) Definition of hostel was inserted by S.I.1999/2401.

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

(3) 2000 c. 14.

(4) 2001 asp8.

(5) Paragraph (9) was amended by S.I. 1995/625 and by S.I. 1992/3147.

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- (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;”.
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)(6).
4. In regulation 8 (eligible housing costs)—
- (a) for paragraph (2)(7) 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)(8).
5. In paragraph (8) of regulation 12A(9) (requirement to refer to rent officers), omit the definitions of “nursing home” and “residential care home”.
6. In paragraph (5)(10) 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.”.
7. In regulation 45 (calculation of tariff income from capital)—
- (a) for paragraph (1B)(11) 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 3<sup>rd</sup> October 2005 paragraph (2) of regulation 7 as in force on that date applied; or

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(6) Paragraphs (4) to (12) were inserted by S.I. 1992/3147.

(7) Paragraph (2) was amended by S.I.1992/3147 and by S.I. 1996/1510.

(8) Paragraphs (2ZA) and (2ZB) were inserted by S.I. 1993/518.

(9) Paragraph 12A was inserted by S.I. 1990/546.

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

(11) Paragraph (1B) was inserted by S.I.1996/462.

- (ii) to whom on 3<sup>rd</sup> 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)(**12**)—
    - (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)(**13**) substitute—

“(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.”.
- 8.** In paragraph 14(5) of Schedule 5ZA(**14**) (capital to be disregarded) for “being in a care home” substitute “residing in a care home or an independent hospital”.
- 9.** In Schedule 5 (Capital to be disregarded)—
- (a) in paragraph 66(5)(**15**) 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”.

### **Transitional arrangements and savings for housing benefit**

- 10.**—(1) Sub-paragraph (2) shall apply to a person who, on 3<sup>rd</sup> 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.

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

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

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

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

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(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 3<sup>rd</sup> 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 3<sup>rd</sup> 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.