

1987 No. 659

SOCIAL SECURITY

The Supplementary Benefit (Requirements and Resources) Amendment and Uprating Regulations 1987

Made - - - - - *3rd April 1987*

Coming into force

*For the purpose of regulations 1,
2(c), 3, 7 and 8* *6th April 1987*

For all other purposes *13th April 1987*

The Secretary of State for Social Services, with the consent of the Treasury(a), in exercise of the powers conferred upon him by sections 1(3), 2(2) and 34(1)(b) of, and paragraphs 1 and 2 of Schedule 1 to the Supplementary Benefits Act 1976(c) and section 166(2) and (3) of the Social Security Act 1975(d) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should, insofar as they are required to be referred to it, not be so referred(e), hereby makes the following Regulations of which a draft has, in accordance with section 33(3) of the Supplementary Benefits Act 1976 been laid before Parliament:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Supplementary Benefit (Requirements and Resources) Amendment and Uprating Regulations 1987 and shall come into force for the purposes of regulations 1, 2(c), 3, 7 and 8 on 6th April 1987 and for all other purposes on 13th April 1987.

(2) In these Regulations the “Requirements Regulations” means the Supplementary Benefit (Requirements) Regulations 1983(f).

Amendment of regulation 9 of the Requirements Regulations

2. In regulation 9 of the Requirements Regulations (modification of normal requirements of boarders) —

(a) in paragraph (1)(a) for the words “paragraph (4)” there shall be substituted the words “paragraphs (4) and (4A)”; and

(a) See section 33(3) of the Supplementary Benefits Act 1976 (c.71). (b) See definitions of “prescribed” and “regulations”. (c) 1976 c.71, as amended by section 6 and Part I of Schedule 2 to the Social Security Act 1980 (c.30). (d) 1975 c.14; section 166 was applied by section 33(2) of the Supplementary Benefits Act 1976 (c.71). (e) See section 10 of the Social Security Act 1980 (c.30). (f) S.I. 1983/1399; the relevant amending instruments are S.I. 1984/1102, 1103, 1985/1247, 1835, 1986/1292.

- (b) after paragraph (4) there shall be inserted the following paragraph –
 “(4A) Where in addition to the weekly amount for board and lodging in a nursing or residential care home, as calculated in accordance with paragraph (4), a separate charge is made for the provision of heating, attendance, extra baths, laundry, any special diet within the meaning of paragraph 14 of Schedule 4 or domestic assistance, the weekly amount for board and lodging shall be increased by the amount of that charge.”; and
- (c) in paragraph (18) after the words “as appropriate” where they occur for the first time there shall be inserted the words “as at the relevant date”.

Amendment of regulation 10 of the Requirements Regulations

3. In regulation 10(5) of the Requirements Regulations (modification of normal requirements in special cases) for sub-paragraph (c) there shall be substituted the following sub-paragraph –

- “(c) in residential accommodation by a local social services authority under section 21 of, and paragraph 1 or 2 of Schedule 8 to, the National Health Service Act 1977(a), (care of mothers and young children, prevention, care and aftercare) other than –
 - (i) such accommodation where full board is not available to the person; or
 - (ii) accommodation provided under the said section 21 and paragraph 2 which is registered under the provisions of Part I of the Registered Homes Act 1984(b) where the premises are used for the rehabilitation of alcoholics or drug users; or
 - (iii) a hostel within the meaning of paragraph 6(1) of Schedule 1A.”.

Amendment of regulation 12 of the Requirements Regulations

4. In regulation 12 (heating) of the Requirements Regulations –

- (a) in paragraph (2) after sub-paragraph (j) there shall be added the following sub-paragraph –
 - “(k) no amount shall be applicable under Part I of Schedule 4 in relation to a person to whom regulation 9 applies and who is resident in either a nursing or residential care home unless –
 - (i) an amount was applicable in relation to him under paragraph 2,3,4,6,7A or 8 of that Schedule immediately before he became resident in such a home; and
 - (ii) he is absent from his normal home; and
 - (iii) the period of absence referred to in paragraph (2)(c) or (3), as the case may be, has not expired in his case.”.
- (b) in paragraph (4) for all the words preceding sub-paragraph (a) there shall be substituted the words “Except as provided in paragraph (2) (k) the amount applicable in relation to a person to whom regulation 9 (normal requirements of boarders) or regulation 10(2) or any paragraphs 1 to 11 of Schedule 3 (normal requirements in special cases) applies shall be as follows –”.

Amendment of regulation 13 of the Requirements Regulations

5. In regulation 13 (items other than heating) of the Requirements Regulations –

- (a) at the beginning of paragraph (7) there shall be inserted the words “Subject to paragraph (8)”.
- (b) after paragraph (7) there shall be added the following paragraph –
 - “(8) No amount shall be applicable under Part II of Schedule 4 under paragraphs 10,11,14,15 or 18 in relation to a person to whom regulation 9 applies and who is resident in either a nursing or residential care home.”.

(a) 1977 c.49.

(b) 1984 c.23.

Insertion of a new regulation 13A to the Requirements Regulations

6. After regulation 13 of the Requirements Regulations (items other than heating) there shall be inserted the following regulation –

“Transitional provisions relating to persons resident in nursing or residential care homes

13A.—(1) This regulation shall apply in respect of any person who immediately before 13th April 1987 was in receipt of a pension or an allowance as a boarder within the meaning of regulation 9 and,

- (a) was resident in or, if not resident would but for his temporary absence be resident in, either a nursing or residential care home; and
- (b) in the calculation of his requirements an amount was applicable in respect of him or, but for his temporary absence, would have been applicable in respect of him but for that absence, under any paragraph in Part I of or, paragraphs 10, 11, 14, 15 or 18 of Part II of Schedule 4 (additional requirements); and
- (c) as of the 13th April 1987 the amount or, as the case may be, those amounts referred to in sub-paragraph (b) are no longer applicable in relation to him; and
- (d) the conditions specified in any of the paragraphs of Schedule 4 referred to in sub-paragraph (b) as are applicable in relation to the person continue to be satisfied; and
- (e) the person continues to be resident in, other than for any temporary absence, either a nursing or residential care home.

(2) In a case to which this regulation applies, there shall be applicable in respect of the person referred to in paragraph (1) the amount or, as the case may be, those amounts applicable under any of the paragraphs of Schedule 4 referred to in paragraph (1)(b) as in force immediately before the 13th April 1987 less the amount or, as the case may be, those amounts charged for the provision of services to which those additional requirements relate which are now met by virtue of regulation 9(4A) as part of the weekly amount for board and lodging.

(3) For the purpose of this regulation “nursing home” and “residential care home” have the same meaning as in regulation 9 and Schedule 1A and “temporary absence” does not include an absence which exceeds 12 months in the case of a person of or over pensionable age, or 13 weeks in the case of a person who has not yet attained pensionable age.”.

Amendment of Schedule 1A to the Requirements Regulations

7. In Schedule 1A (maximum amounts for boarders) –

- (a) for the amounts specified in each provision of that Schedule set out in column 1 of the Schedule to these Regulations, such amount being set out in column 2 of the Schedule to these Regulations, there shall be substituted in relation to that provision the amount set out in column 3 of the Schedule to these Regulations;
- (b) in paragraph 6(1) (definitions for the purpose of regulation 9 and Schedule 1A) in sub-paragraph (d) of the definition of “residential care home” after the words “Act of Parliament” there shall be inserted the words “, other than a local social services authority,”.

Amendment of the Supplementary Benefit (Resources) Regulations 1981

8. In regulation 11 (4)(o) of the Supplementary Benefit (Resources) Regulations 1981(a) (disregard of payments under a mortgage protection insurance policy) for head (i) there shall be substituted the following head –

“(i) subject to paragraph (4B) the amount, calculated on a weekly basis, of any interest which is excluded by regulation 15(1)(b)(ii) of the 1983 Requirements Regulations from the amount applicable under regulation 15 or 17 of those regulations.”.

Signed by authority of the Secretary of State for Social Services.

2nd April 1987

John Major
Minister of State,
Department of Health and Social Security

We consent,

3rd April 1987

Peter Lloyd
Tim Sainsbury
Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Regulation 7

AMOUNTS SUBSTITUTED IN SCHEDULE 1A TO THE REQUIREMENTS REGULATIONS

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision in Schedule 1A to the Requirements Regulations</i>	<i>Old Amount</i>	<i>New Amount</i>
Paragraph 1 (residential care homes) –		
sub-paragraph (1)(a)	£125	£130
sub-paragraph (1)(e)	£180	£190
	£125	£130
sub-paragraph (1)(f)	£125	£130
sub-paragraph (3)	£140	£145
Paragraph 2 (nursing homes) –		
sub-paragraph (1)(d)	£170	£175
sub-paragraph (1)(f)	£170	£175

(a) S.I. 1981/1527; the relevant amending instrument is S.I. 1987/17.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Supplementary Benefit (Requirements) Regulations 1983 as they relate to boarders.

They provide for an increase in the maximum weekly board and lodging charge which will be met by supplementary benefit in respect of certain residents in nursing or residential care homes (regulation 7 and the Schedule).

They provide that those permanently resident in nursing or residential care homes are not eligible to have included in the calculation of their requirements any additional requirement for heating, attendance needs, extra baths, special diets, domestic assistance or laundry, but that any separate charge for the provision of such services shall be added to and treated as part of the weekly board and lodging charge and subject to the maximum limits (regulations 2, 4 and 5).

They provide for the gradual reduction of transitional protection afforded certain boarders in receipt of benefit as of the 28th July 1986 as the maximum board and lodging charge limit is uprated (regulation 2(c)).

They provide that residents in residential accommodation provided by local authorities in which full board is provided or which are not hostels are not to be treated as boarders.

They provide transitional protection for those in receipt of benefit as permanent residents in nursing or residential care homes as of the 12th April 1987 and whose requirements included any of the additional requirements otherwise withdrawn as of the 13th April 1987 (regulation 6).

They also amend the Supplementary Benefit (Resources) Regulations 1981 so as to disregard the amount of any payment under a mortgage protection insurance policy which is used to meet mortgage interest payments but which is not included in the amount of interest applicable as a housing requirement (regulation 8).