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STATUTORY INSTRUMENTS

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**1988 No. 1445**

**SOCIAL SECURITY**

**The Income Support (General)  
Amendment No. 4 Regulations 1988**

<i>Made</i>	- - - -	<i>11th August 1988</i>
<i>Laid before Parliament</i>		<i>15th August 1988</i>
<i>Regulations 1 and 14</i>		<i>5th September 1988</i>
<i>Regulations 2 to 13, 15 to 17 and 19 to 26</i>		<i>12th September 1988</i>
<i>Regulations 18, 27 and 28</i>		<i>10th April 1989</i>

The Secretary of State for Social Security in exercise of the powers conferred by sections 20(3)(d), (11) and (12)(c) and (d), 21(1A), 22(1), (8) and (9) and 84(1) of the Social Security Act 1986<sup>(1)</sup> and section 166(1) to (3A) of the Social Security Act 1975<sup>(2)</sup> of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Income Support (General) Amendment No. 4 Regulations 1988 and shall come into force as follows—

- (a) regulations 1 and 14, on 5th September 1988;
- (b) regulations 2 to 13, 15 to 17 and 19 to 26, on 12th September 1988;
- (c) regulations 18, 27 and 28, on 10th April 1989.

(2) In these Regulations “the General Regulations” means the Income Support (General) Regulations 1987<sup>(3)</sup>.

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(1) 1986 c. 50; section 21(1A) was inserted by the Social Security Act 1988 (c. 7), Schedule 4, paragraph 23; and section 84(1) is cited because of the meaning assigned to the words “prescribed” and “regulations”.

(2) 1975 c. 14; section 166(3A) was inserted by section 62 of the Social Security Act 1986 and section 166(1) to (3A) is applied by section 83(1) of that Act.

(3) S.I. 1987/1967 amended by S.I. 1988/663, 910, 999 and 1228.

### **Amendment of regulation 2 of the General Regulations**

2. In Regulation 2(1) of the General Regulations (interpretation)—
- (a) at the end of the definition of “benefit week” there shall be added the words “and for the purposes of calculating any payment of income and of regulation 74(2)(a) “benefit week” shall also mean the period of 7 days ending on the day before the first day of the first benefit week following the date of claim or the last day on which income support is paid if it is in payment for less than a week;”;
  - (b) after the definition of “employed earner” there shall be inserted the following definition—  
““employment” except for the purposes of section 20(3)(d) of the Act, includes any trade, business, profession, office or vocation;”;
  - (c) for the definition of “residential accommodation” there shall be substituted the following definition— “residential accommodation” except in regulations 19 and 20 and paragraph 8(c)(i) of Schedule 5 has the meaning prescribed in regulation 21(3);”.

### **Amendment of regulation 5 of the General Regulations**

3. In regulation 5 of the General Regulations (persons treated as engaged in remunerative work) after paragraph (5) there shall be added the following paragraph—
- “(6) For the purposes of this regulation, in determining the number of hours in which a person is engaged or treated as engaged in remunerative work, no account shall be taken of any hours in which the person is engaged in an employment or a scheme to which paragraph (a) to paragraph (f) of regulation 6 (persons not treated as engaged in remunerative work) applies.”.

### **Amendment of regulation 6 of the General Regulations**

4. In regulation 6 of the General Regulations (persons not treated as engaged in remunerative work)—
- (a) for the words “remunerative work if—” there shall be substituted the words “remunerative work in so far as—”;
  - (b) in paragraph (e) after the words “regulation 5(4)” there shall be inserted the words “and (5)”.

### **Amendment of regulation 14 of the General Regulations**

5. In regulation 14(1) of the General Regulations (persons of a prescribed description) for the words “and 3” there shall be substituted the words “and (3)”.

### **Amendment of regulation 18 of the General Regulations**

6. In regulation 18(1) of the General Regulations (polygamous marriages) after sub-paragraph (f) there shall be added the following sub-paragraph—
- “(g) any amount determined in accordance with regulation 17(1)(f) (applicable amounts);”.

### **Amendment of regulation 19 of the General Regulations**

7. In regulation 19(3) of the General Regulations (applicable amounts for persons in residential care and nursing homes) in the definition of “residential care home”—

- (a) in paragraph (b) the words from “for persons in need” to “mental disorder” shall be omitted;
- (b) at the beginning of paragraph (d) there shall be inserted the words “which provides residential accommodation with both board and personal care and is”; and
- (c) after paragraph (e) there shall be added the following—
  - “and in paragraphs (b) and (d) of this definition “personal care” means personal care for persons in need of personal care by reason of age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder.”.

#### **Amendment of regulations 31 and 32 of the General Regulations**

**8.** In regulations 31(2) and 32(4)(a) of the General Regulations (date on which income is treated as paid and calculation of income) after the words “unemployment benefit,” there shall be inserted in each of those provisions the words “maternity allowance,”.

#### **Amendment of regulation 41 of the General Regulations**

**9.** In regulation 41 of the General Regulations (capital treated as income) after paragraph (3) there shall be added the following paragraph—

“(4) In the case of a person to whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of that Act (effect of return to work), any amount by way of repayment of income tax deducted from his emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988(4), shall be treated as income.”.

#### **Amendment of regulation 42 of the General Regulations**

**10.** In regulation 42 of the General Regulations (notional income)—

- (a) for paragraph (4) there shall be substituted the following paragraphs—

“(4) Any payment of income, other than a payment of income made under the Macfarlane Trust or the Independent Living Fund, made—

- (a) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party’s family) shall be treated—
  - (i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, a war disablement pension or war widow’s pension, as possessed by that single claimant, if it is paid to him, or by that member, if it is paid to any member of that family;
  - (ii) in any other case, as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulations 17(1)(e) or 18(1)(f) (housing costs) or accommodation charge to the extent that it is met under regulation 19 or 20 (persons in residential care or nursing homes or in board and lodging accommodation or hostels), of that single claimant or, as the case may be, of any member of that family;
- (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the

extent that it is kept or used by him or used by or on behalf of any member of the family;

but, except where sub-paragraph (a)(i) applies and in the case of a person to whom section 23 of the Act (trade disputes) applies, this paragraph shall not apply to any payment in kind.”;

(b) after paragraph (8) there shall be added the following paragraph—

“(9) In paragraph (4) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”.

### **Amendment of regulation 48 of the General Regulations**

**11.** In regulation 48 of the General Regulations (income treated as capital)—

- (a) in paragraph (1) the word “annual” shall be omitted; and after the word “applies” there shall be inserted the words “and paid at intervals of at least one year”;
- (b) in paragraph (2) after the words “(refund of tax in trade dispute cases)” there shall be inserted the words “or regulation 41(4) (capital treated as income)”.

### **Amendment of regulation 51 of the General Regulations**

**12.** In regulation 51 of the General Regulations (notional capital)—

(a) for paragraph (3) there shall be substituted the following paragraph—

“(3) Any payment of capital, other than a payment of capital made under the Macfarlane Trust or the Independent Living Fund, made—

- (a) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party’s family) shall be treated—
  - (i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, a war disablement pension or a war widow’s pension as possessed by that single claimant, if it is paid to him, or by that member if it is paid to any member of the family;
  - (ii) in any other case, as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 17(1)(e) and 18(1)(f) (housing costs) or accommodation charge to the extent that it is met under regulation 19 or 20 (persons in residential care or nursing homes or board and lodging accommodation or hostels), of that single claimant or, as the case may be, of any member of that family;
- (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.”;

(b) after paragraph (7) there shall be added the following paragraph—

“(8) In paragraph (3) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”.

### **Amendment of regulation 52 of the General Regulations**

13. In regulation 52 of the General Regulations (capital jointly held) at the end there shall be added the words “and the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess.”.

### **Amendment of regulation 62 of the General Regulations**

14. In regulation 62(2)(g) of the General Regulations (calculation of grant income) for the sum of “£210” there shall be substituted the sum of “£220”.

### **Amendment of regulation 71 of the General Regulations**

15. In regulation 71 of the General Regulations (applicable amounts in urgent cases)—
- (a) in paragraph (1)(a)(iv) for the words “regulation 17(e) or 18(f) (housing costs)” there shall be substituted the words “regulation 17(1)(e) or, as the case may be, 18(1)(f) (housing costs)”;
  - (b) in paragraph (1)(d) for head (iii) there shall be substituted the following—
    - “(iii) any amounts applicable under regulation 17(1)(e) or, as the case may be, 18(1)(f).”.

### **Amendment of regulation 72 of the General Regulations**

16. In regulation 72(2) of the General Regulations (assessment of income and capital in urgent cases) for the words “and 9(b)” there shall be substituted the words “, 9(b) and 31”.

### **Amendment of regulations 73 and 75 of the General Regulations**

17. In regulations 73(3) and 75(b), (e) and (f) of the General Regulations (amount of income support payable and modifications in the calculation of income) after the words “unemployment benefit,” in each of those provisions there shall be inserted the words “maternity allowance,”.

### **Amendment of Schedule 1 to the General Regulations**

18. In Schedule 1 to the General Regulations (persons not required to be available for employment) paragraph 15 (allowances under the Job Release Act 1977(5)) shall be omitted.

### **Amendment of Schedule 2 to the General Regulations**

19. In Schedule 2 to the General Regulations (applicable amounts) after the words “regulation 17” wherever they occur in that Schedule there shall be inserted “(1)”; and—

- (a) in paragraph 1 for “18(a)” there shall be substituted “18(1)(a)”;
- (b) in paragraph 2 for “18(c)” there shall be substituted “18(1)(c)”;
- (c) in paragraphs 3 and 4 for the words “and 18” wherever they occur in those paragraphs there shall be substituted “and 18(1)”;
- (d) after paragraph 14 (disabled child premium) there shall be inserted the following paragraph—

**“Persons in receipt of concessionary payments**

**14A.** For the purpose of determining whether a premium is applicable to a person under paragraphs 12 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.”.

**Amendment of Schedule 3 to the General Regulations**

**20.** In Schedule 3 to the General Regulations (housing costs)—

- (a) in paragraph 1 for the words “regulation 17(e) or 18(f)” there shall be substituted the words “regulation 17(1)(e) or 18(1)(f)”;
- (b) in paragraph 7, at the end of sub-paragraph (9) there shall be added the following—

“(f) where—

- (i) the claimant was a member of a family of a person (not being a former partner) entitled to income support and at least one other member of that family was a child or young person; and
- (ii) the claimant becomes a member of another family which includes that child or young person; and
- (iii) the claimant made his claim for income support within 8 weeks of the date on which the person entitled to income support mentioned in (i) above ceased to be so entitled,

the claimant shall be treated as being in receipt of income support for the same period as that person had been or had been treated, for the purposes of sub-paragraph (1), as having been.”.

**Amendment of Schedule 4 to the General Regulations**

**21.** In Schedule 4 to the General Regulations (applicable amounts of persons in residential care and nursing homes) in paragraph 1—

- (a) in sub-paragraph (1)(c) for the words “regulation 17(e) or 18(f)” there shall be substituted the words “regulation 17(1)(e) or 18(1)(f)”;
- (b) after sub-paragraph (1)(c) there shall be added the following—

“and

- (d) any amount determined in accordance with regulation 17(1)(f) or 18(1)(g) (applicable amounts).”.

**Amendment of Schedule 5 to the General Regulations**

**22.** In Schedule 5 to the General Regulations (applicable amounts of persons in board and lodging accommodation or hostels)—

- (a) in paragraph 1—

- (i) in sub-paragraph (1)(c) for the words “regulation 17(e) or 18(f)” there shall be substituted the words “regulation 17(1)(e) or 18(1)(f)”;

- (ii) after sub-paragraph (1)(c), there shall be added the following—

“and

- (d) any amount determined in accordance with regulation 17(1)(f) or 18(1)(g) (applicable amounts).”;
- (b) in paragraph 7 after the word “family” in the second place in which it occurs, there shall be inserted the words “, increased where appropriate in accordance with paragraph 2,”;
- (c) in paragraph 10(1) for the words “for the board and lodging accommodation over the maximum” there shall be substituted the words “, increased where appropriate in accordance with paragraph 2, for the board and lodging or hostel accommodation over the maximum”.

### **Amendment of Schedule 7 to the General Regulations**

**23.** In Schedule 7 to the General Regulations (applicable amounts in special cases) after the words “regulation 17” wherever they occur in that Schedule there shall be inserted “(1)”; and—

- (a) in Column 2, in paragraph 1—
  - (i) in sub-paragraph (a), at the end there shall be added the words “or (f)”;
  - (ii) in sub-paragraphs (b) and (c)(ii) for the words “or (e)” in each of those provisions there shall be substituted the words “, (e) or (f)”;
  - (iii) in sub-paragraph (d)(ii) for the words “regulation 18(c) and (d) or (f)” there shall be substituted the words “regulation 18(1)(c), (d), (f) or (g),”;
- (b) in Column (2), in paragraph 3 for the words “or 18(c)” wherever they occur there shall be substituted the words “or 18(1)(c)”;
- (c) in Column (1), in paragraph 11 for the words “Great Britain” there shall be substituted the words “United Kingdom.”;
- (d) in Column (2), in paragraph 13(1) at the beginning there shall be added the words “Any amount applicable under regulation 17(1)(f) or 18(1)(g), plus”;
- (e) in Column (1), in paragraph 16(b) for the words “or 18 (patients)” there shall be substituted the words “or 18(b)(i), (b)(ii) case two, or (b)(iv) cases one and three (patients)”;
- (f) in Column (2), in paragraph 17(b)(ii) and (c)(i), for the words “(e), or as the case may be,” in each of those provisions there shall be substituted the words “(e) and (f) or, as the case may be,”;
- (g) in Column (2), in paragraph 18—
  - (i) in sub-paragraph (a)(iii) at the end there shall be added the words “plus any amount applicable under regulation 17(1)(f)”;
  - (ii) in sub-paragraph (b)(i) after “£8.25” there shall be inserted the words “, plus any amount applicable under regulation 17(1)(f),”;
  - (iii) in sub-paragraph (b)(ii), case two, for the words “(c) or (d)” there shall be substituted “(c), (d) or (f)”;
  - (iv) in sub-paragraph (b)(iv), case one, after the words “polygamous marriage” there shall be inserted the words “, plus any amount applicable under regulation 17(1)(f) or 18(1)(g),”;
  - (v) in sub-paragraph (b)(iv) case three, for the words “or 18(f)” there shall be substituted the words “or 18(1)(f)”.

### **Amendment of Schedule 8 to the General Regulations**

**24.** In Schedule 8 to the General Regulations (sums to be disregarded in the calculation of earnings)—

- (a) in paragraph 1(a) for the words “on termination of his employment” there shall be substituted the words “in respect of that employment which has terminated”;
- (b) in paragraph 1(b) for the words “on the interruption of his employment” there shall be substituted the words “in respect of that employment which is interrupted”; and
- (c) in paragraph 2 the word “immediately” shall be omitted; and for the words “on termination or interruption of that employment” there shall be substituted the words “or due to be paid in respect of that employment which has been terminated or interrupted before the claim is made.”.

### **Amendment of Schedule 9 to the General Regulations**

**25.** In Schedule 9 to the General Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 22—
  - (i) in sub-paragraph (1) for the words “or 12” there shall be substituted the words “12 or 25 to 28”;
  - (ii) in sub-paragraph (2) for the words “or 4” there shall be substituted the words “4 or 25 to 28”;
- (b) in paragraph 26 for the words “section 12” there shall be substituted the words “section 21”;
- (c) in paragraph 30(d) after the words “actual charge” there shall be inserted the words “increased where appropriate in accordance with paragraph 2 of Schedule 4 or paragraph 2 of Schedule 5”;
- (d) after paragraph 39 there shall be added the following paragraph—
 

“**40.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.”.

### **Amendment of Schedule 10 to the General Regulations**

**26.** In Schedule 10 to the General Regulations (capital to be disregarded)—

- (a) in paragraph 2 after the words “intends to occupy” there shall be inserted the words “as his home”;
- (b) in paragraph 4(a) after the words “member of the family” there shall be inserted the words “as his home”;
- (c) after paragraph 28 there shall be added the following paragraphs—
  - “(29) Any payment in kind made by a charity.
  - (30) Any payment not exceeding £200 made under section 2 of the Employment and Training Act 1973<sup>(6)</sup> (functions of the Secretary of State) as a training bonus to a person participating in arrangements for training made under that section.
  - (31) Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.”.

### **Board and Lodging Accommodation**

**27.** The provisions of the General Regulations relating to persons in board and lodging accommodation shall be amended in accordance with Schedule 1 to these Regulations.

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(6) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25.

**Transitional Provision**

**28.**—(1) Where a claimant's benefit week in the week commencing 3rd April 1989 begins on a day other than that day his applicable amount for the purpose of calculating his entitlement to income support for that benefit week shall, notwithstanding the amendments made by regulation 27 of these Regulations, be determined as if those amendments had not been made.

(2) In this regulation the expressions used have the same meanings as in the General Regulations.

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

11th August 1988

*Nicholas Scott*  
Minister of State,  
Department of Social Security

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## SCHEDULE 1

Regulation 27

## PART I

omission of references to board and lodging accommodation  
in the general regulations and consequential amendments

1. The words “board and lodging accommodation or” shall be omitted in the provisions specified in the following table—

TABLE

Provision	Description
Regulation 20(1)(a)	Persons in board and lodging accommodation or hostels.
Regulation 21(3), definition of “residential accommodation” (d)(iii)	Special cases.
Schedule 3 — paragraph 5(b) — paragraph 11(7)(b)	Housing costs.
Schedule 5 — paragraph 2(a) — paragraph 9— where those words occur in the second place — paragraph 10(2)(c)	Applicable amounts for persons in board and lodging accommodation.
Schedule 7 — paragraph 14, column (2)	Polish resettlement
— paragraph 16—where those words occur in both column (1) and column (2)	Applicable amounts in special cases.
— paragraph 18, column (1)	Persons in residential care or nursing homes, board and lodging accommodation or hostels who become patients.

2. In regulation 3(3) of the General Regulations (definition of non-dependant) for the words from “or a hostel” to the end there shall be substituted the words “or in a hostel within the meaning of regulation 20(2) (applicable amounts for persons in hostels) shall be a non-dependant.”.

3. In regulation 22(1)(b) (reductions in applicable amounts in cases of voluntary unemployment) and regulation 73(2) (amount of income support payable) the words “or board and lodging accommodation” shall be omitted.

4. In regulation 42(4)(a)(ii) (notional income) and regulation 51(3)(a)(ii) (notional capital) the words “or in board and lodging accommodation” shall be omitted.

5. In regulation 71(1)(b) (applicable amounts in urgent cases) the words “board and lodging accommodation,” shall be omitted.

6. In Schedule 3 (amounts in respect of housing costs) in paragraph 10(4)(a), the words “or is normally occupied by persons in board and lodging accommodation” shall be omitted.

7. In Schedule 5 (applicable amounts for persons in board and lodging accommodation)—

- (a) in paragraph 9 the words “in board and lodging accommodation or” shall be omitted;
- (b) in paragraph 10 in sub-paragraph (1) the words “board and lodging or” shall be omitted;
- (c) for paragraph 5 there shall be substituted the following paragraph—

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- “(5) Subject to paragraphs 6 and 7, the maximum referred to in paragraph 1(1) (a) shall be—
- (a) in the case of a single claimant £70.00 per week;
  - (b) where the claimant is a member of a family, in respect of each member of the family aged under 11, 1½ times the amount specified in paragraph 2(a) of Schedule 2, and in respect of each other member of the family, £70.00 per week.”.
- 8.** In Schedule 8 (sums to be disregarded in the calculation of earnings)—
- (a) in paragraphs 4(1)(a) and (b)(i) and 5 the words “board and lodging accommodation” shall be omitted;
  - (b) in paragraph 4(1)(b)(ii), for the words “hostel or board and lodging accommodation” there shall be substituted the words “or hostel”;
  - (c) in paragraph 15 for the words “hostel or board and lodging accommodation” there shall be substituted the words “or hostel”.
- 9.** In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 19, the words “or one who is provided with board and lodging accommodation” shall be omitted; and
  - (b) in paragraph 30(d) the words “board and lodging,” shall be omitted.
- 10.** The provisions specified in the following table shall be omitted—

TABLE

Provision	Description
The definitions of “board and lodging accommodation” and “board and lodging area” in regulation 20(2).	Persons in board and lodging accommodation or hostels.
Schedule 5, paragraphs 14, 16, 17 and 18.	Applicable amounts of persons in board and lodging accommodation.
Schedule 6.	Board and lodging areas.
Schedule 7, paragraphs 4 and 5.	Applicable amounts in special cases.

## PART II

transitional provisions for determining the applicable amounts of persons who were in board and lodging accommodation prior to 10th april 1989

- 11.** In regulation 17(1) of the General Regulations (applicable amounts)—
- (a) in sub-paragraph (f) for the words “the following provisions of this regulation” there shall be substituted the words “paragraphs (2) to (7)”;
  - (b) after sub-paragraph (f) there shall be added the following sub-paragraph—
    - “(g) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A.”.

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12. In regulation 18(1) of the General Regulations (polygamous marriages)(7) after sub-paragraph (g) there shall be added the following sub-paragraph—

“(h) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A.”.

13. In regulation 71 of the General Regulations (applicable amounts in urgent cases)(8)—

(a) in paragraph (1)(a) at the end of head (iv) there shall be inserted the following—

“and

(v) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A;”;

(b) in paragraph (1)(d) at the end of head (iii) there shall be inserted the following—

“and

(iv) the amount of the protected sum which may be applicable to him determined in accordance with Schedule 3A.”.

14. After Schedule 3 to the General Regulations (housing costs) there shall be inserted as Schedule 3A the Schedule set out in Schedule 2 to these Regulations.

15. In Schedule 7 to the General Regulations (applicable amounts in special cases)(9)—

(a) in column 2, in paragraph 1—

(i) in sub-paragraphs (a), (b) and (c)(ii) for the words “or (f)” in each of those provisions there shall be substituted the words “, (f) or (g)”;

(ii) in sub-paragraph (d)(ii) for the words “or (g)” there shall be substituted the words “, (g) or (h)”;

(b) in column 2, in paragraph 17(b)(ii) and (c)(i) for the words “regulation 17(1)(e) and (f)” there shall be substituted the words “regulation 17(1)(e), (f) and (g)”.

SCHEDULE 2

Regulation 27 and Schedule 1, paragraph 14

To be inserted after Schedule 3 to the General Regulations—

“SCHEDULE 3A

Regulations 17(1)(g), 18(1)(h) and 71(1)(a)(v) and (d)(iv)

PROTECTED SUM

**Interpretation**

1.—(1) In this Schedule—

“eligible housing benefit” means the amount of housing benefit to which the claimant or his partner was entitled in the period of 7 consecutive days beginning on 3rd April or, as the case may be, 10th April, 1989;

“first week” means the benefit week beginning on a day during the period of 7 days commencing on 3rd April 1989;

(7) Regulation 18(1) is amended by regulation 6 of these Regulations.

(8) Regulation 71 is amended by regulation 15 of these Regulations.

(9) Schedule 7 is amended by regulation 23 of these Regulations.

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“income support” includes any sum payable under Part II of the Income Support (Transitional) Regulations 1987<sup>(10)</sup>;

“protected sum” means the amount applicable under this Schedule;

“protected total” means the total of the claimant’s applicable amount under regulation 20 (applicable amounts for persons in board and lodging accommodation) in the first week and the amount of any eligible housing benefit for the period beginning 3rd April 1989;

“relevant provisions” means—

- (a) regulation 17(1)(a) to (f) (applicable amounts);
- (b) regulation 18(1)(a) to (g) (polygamous marriages);
- (c) regulation 71(1)(a)(i) to (iv) (urgent cases);
- (d) regulation 71(1)(d)(i) to (iii);
- (e) in relation to a case to which paragraph 17(b)(ii) or (c)(i) of Schedule 7 (persons from abroad) applies, the regulations specified in that paragraph but as if the reference to regulation 17(1)(g) in that paragraph were omitted; or
- (f) in relation to a case to which paragraph 17(d)(i) of that Schedule applies, the regulations specified in that paragraph but as if the reference to regulation 18 were a reference to regulation 18(1)(a) to (g) only;

“second week” means the benefit week beginning on a day during the period of 7 days commencing on 10th April 1989.

(2) For the purposes of this Schedule—

- (a) in determining a claimant’s applicable amount in his first week, second week or any subsequent benefit week no account shall be taken of any reduction under regulation 22 (reduction in certain cases of unemployment benefit disqualification);
- (b) where a change of circumstances takes effect in the claimant’s second week which, had it taken effect in the first week, would have resulted in a lesser applicable amount in respect of that week, his applicable amount in the first week shall be determined as if the change of circumstances had taken effect in that week.

### **Protected sum**

2. Subject to the following provisions of this Schedule, where the protected total of a claimant is more than—

- (a) his applicable amount in the second week determined in accordance with the relevant provisions; and
- (b) any eligible housing benefit for the period beginning 10th April 1989, the protected sum applicable to the claimant shall be an amount equal to the difference.

### **Persons not entitled to a protected sum**

3. A protected sum shall not be applicable to a claimant where in the first week—

- (a) he is aged under 25 and, if he is a member of a couple, his partner is also aged under 25; and
- (b) he is required to be available for employment for the purposes of section 20(3)(d)(i) of the Act; and
- (c) he was not in receipt of supplementary benefit as a boarder on 24th November 1985; and

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<sup>(10)</sup> S.I. 1987/1969 amended by S.I. 1988/521, 670.

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- (d) none of the conditions in paragraph 16(4) of Schedule 5 (applicable amounts of persons in board and lodging accommodation or hostels) applies to him.

#### **Period of application**

- 4. Subject to paragraph 7, the protected sum shall not be applicable to a claimant for more than—
  - (a) in the case of a claimant who is a member of a family and that family includes a child or young person and during the first week that family was in accommodation not provided or secured by a local authority under section 63 or 65(2) or (3)(a) of the Housing Act 1985<sup>(11)</sup> or section 2 of the Housing (Scotland) Act 1987<sup>(12)</sup>, a period of 52 weeks beginning with the second week;
  - (b) in any other case, a period of 13 weeks beginning with the second week.

#### **Reduction of protected sum**

5.—(1) Subject to sub-paragraph (2), the protected sum shall be reduced by the amount of any increase, in a benefit week subsequent to the second week, in the claimant's applicable amount determined in accordance with the relevant provisions.

(2) Where regulation 22 (reduction in certain cases of unemployment benefit disqualification) ceases to apply to a claimant and as a result his applicable amount increases no account shall be taken of that increase.

#### **Termination of protected sum**

- 6. Subject to paragraph 7, the protected sum shall cease to be applicable if—
  - (a) that amount is reduced to nil under paragraph 5; or
  - (b) the claimant changes or leaves his accommodation; or
  - (c) the claimant ceases to be entitled to income support.

#### **Protected persons**

7.—(1) Subject to sub-paragraph (2), for the purposes of this paragraph a protected person is a claimant, where—

- (a) in respect of the first week he is entitled to an increase under paragraph 7 of Schedule 5 (applicable amounts of persons in board and lodging accommodation or hostels) because either he or, if he is one of a couple or a member of a polygamous marriage, he or his partner satisfies any of the conditions in paragraph 8 of that Schedule; or
- (b) in the first week the claimant or, if he has a partner, either he or his partner—
  - (i) is in need of personal care by reason of mental or physical disablement, mental illness, or dependence on alcohol or drugs; and
  - (ii) is receiving both board and personal care in accommodation other than a residential care home or nursing home or residential accommodation within the meaning of regulation 21(3) (special cases) or a hostel within the meaning of regulation 20(2) (applicable amounts for persons in board and lodging accommodation and hostels); and

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(11) 1985 c. 68.

(12) 1987 c. 26.

- (iii) is in accommodation which he entered under arrangements for his personal care made by a statutory authority or a voluntary or charitable body and those arrangements are being supervised on a continuing basis by that authority or body; or
  - (c) he or, if he has a partner, either he or his partner but for his temporary absence from his accommodation for a period not exceeding 13 weeks, which includes the first week, would have satisfied (a) or (b) above.
- (2) A claimant is not a protected person if he or, if he has a partner, he or his partner, in the first week, is temporarily living in board and lodging accommodation and that accommodation is not the accommodation normally occupied as the home.
- (3) Paragraph 4 shall not apply to a protected person.
- (4) Paragraph 6(b) shall not apply to a protected person if:
  - (a) he moves to accommodation where he satisfies conditions (i) to (iii) of sub-paragraph (1)(b); or
  - (b) he becomes a patient within the meaning of regulation 21(3); or
  - (c) on his ceasing to be a patient within the meaning of regulation 21(3), either he returns to the accommodation which he occupied immediately before he became a patient, or he moves to other accommodation where he satisfies conditions (i) and (iii) of sub-paragraph (1)(b); or
  - (d) in a case to which sub-paragraph (6) applies, on his becoming re-entitled to income support, he is either in the accommodation which he occupied immediately before he ceased to be entitled to income support, or in accommodation where he satisfies conditions (i) to (iii) of sub-paragraph (1)(b).
- (5) In the case of a protected person who becomes a patient within the meaning of regulation 21(3) for a period of 14 weeks or less, he shall, subject to sub-paragraph (4)(c), on his ceasing to be a patient be entitled to a protected sum equal to either the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which his applicable amount ceases to be determined under paragraph 1 of Schedule 7 and any eligible housing benefit for the period beginning 10th April 1989, or the amount of the protected sum to which he was entitled in the immediately preceding benefit week, whichever is lower.
- (6) Paragraph 6(c) shall not apply to a protected person who has ceased to be entitled to income support for a period of not more than 8 weeks, and if during that period the protected person becomes re-entitled, or would by virtue of this paragraph be re-entitled, to income support he shall, subject to sub-paragraph (4)(d), be entitled to a protected sum equal to either the amount by which his protected total exceeds his applicable amount determined in accordance with the relevant provisions in the first benefit week in which he becomes so re-entitled and any eligible housing benefit for the period beginning 10th April 1989, or the amount of the protected sum to which he was previously entitled, whichever is lower.
- (7) Where a protected person is temporarily absent for a period not exceeding 13 weeks which includes the first week or the second week (or both) from his accommodation, on his return to that accommodation he shall be entitled to a protected sum equal to the difference between—
  - (a) the amount that his applicable amount in the first week would have been had he been entitled in respect of that week to income support on the basis that he was in that accommodation; and, if less,
  - (b) the total of his applicable amount in the first complete benefit week during which he is in that accommodation after the first week, determined in accordance with the relevant provisions and the amount of any housing benefit to which he or his partner was entitled in the period of 7 consecutive days beginning on the Monday in the week in which he returns to that accommodation.”.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Income Support (General) Regulations 1987 in the following respects:—

- (a) they extend to members of polygamous marriages, persons in residential care or nursing homes, board and lodging accommodation and hostels and certain special cases, the provisions for increasing a person's applicable amount where he would have been entitled to a transitional addition had certain capital disregards been in force on the introduction of the scheme (regulations 6, 21, 22(a) and 23); make a number of amendments consequential on this change (regulations 19(a) to (c), 20(a) and 23); and provide for a concessionary payment to be treated as if it were a payment of benefit in determining entitlement to the pensioner and disability premiums (regulation 19(d));
- (b) they terminate, with effect from a person's benefit week in the week beginning 10th April 1989, the arrangements for meeting the accommodation charge for board and lodging accommodation; and make provision for protecting the benefit entitlement of persons in such accommodation immediately before that date who would otherwise receive less benefit (regulations 27 and 28 and Schedules 1 and 2);
- (c) they make a number of miscellaneous amendments to the provisions for the calculation of income and capital (regulations 2(a) and (b), 8 to 14, 16, 17 and 24 to 26); disregard the hours worked in certain employments in determining remunerative work (regulation 3); provide for periods of entitlement to income support of young persons previously members of the claimant's family to be aggregated with his in determining eligibility for mortgage interest relief (regulation 20(b)); amend the definitions of residential accommodation and residential care home (regulations 2(c) and 7); make a consequential amendment as a result of the winding-up of the job release scheme (regulation 18) and certain other minor amendments (regulations 4, 5, 22(b) and (c)).

These Regulations are made before the expiry of 12 months from the commencement of the provisions under which they are made: they are accordingly exempt, by section 61(5) of the Social Security Act 1986, from reference to the Social Security Advisory Committee and have not been so referred.