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STATUTORY INSTRUMENTS

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**1988 No. 2022**

**SOCIAL SECURITY**

**The Income Support (General)  
Amendment No. 5 Regulations 1988**

<i>Made</i>	- - - -	<i>21st November 1988</i>
<i>Laid before Parliament</i>		<i>21st November 1988</i>
<i>Coming into force</i>		
<i>for the purposes of</i> <i>regulations 1, 2(b), 3 to 15,</i> <i>17(b), 18 and 20 to 23</i>		<i>12th December 1988</i>
<i>for the purposes of</i> <i>regulations 2(a), 16, 17(a)</i> <i>and 19</i>		<i>10th April 1989</i>

The Secretary of State for Social Security in exercise of the powers conferred by sections 20(3)(d) and (12)(d), 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> and 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. 5 Regulations 1988 and shall come into force as follows—

- (a) for the purposes of this regulation and regulations 2(b), 3 to 15, 17(b), 18 and 20 to 23, 12th December 1988;
- (b) for the purposes of regulations 2(a), 16, 17(a) and 19, 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 84(1) is cited because of the meaning assigned to the words “prescribed” and “regulations”.  
(2) 1975 c. 14; section 166(3A) is 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, 1228 and 1445.

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

2. In regulation 2(1) of the General Regulations (interpretation)—
- (a) after the definition of “benefit week”, there shall be inserted the following definition—
- ““board and lodging accommodation” means—
- (a) accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises; or
- (b) accommodation provided to a person in a hotel, guest house, lodging house or some similar establishment,
- except accommodation provided by a close relative of his or of any other member of his family, or other than on a commercial basis;”;
- (b) for the definition of “polygamous marriage” there shall be substituted the following definition—
- ““polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;”.

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

3. In regulation 5(5) of the General Regulations (persons treated as engaged in remunerative work) for the word “payable” there shall be substituted the word “paid”.

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

4. 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”, after the words “personal care by reason of” there shall be inserted the word “old”.

### **Omission of regulation 24 of the General Regulations**

5. Regulation 24 of the General Regulations (treatment of charitable or voluntary payments) shall be omitted.

### **Amendment of regulation 28 of the General Regulations**

6. In regulation 28(2) of the General Regulations (calculation of income) the reference “24 and” and the words “treatment of charitable or voluntary payments,” shall be omitted.

### **Amendment of regulation 29 of the General Regulations**

7. In regulation 29 of the General Regulations (calculation of earnings derived from employed earner’s employment and income other than earnings)—
- (a) in paragraph (1) the words “Except where regulation 33 applies (weekly amount of charitable or voluntary payment)” shall be omitted;
- (b) in paragraph (2) for the reference “paragraph (3)” there shall be substituted the reference “paragraphs (3) and (4A)”;

(c) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Where earnings to which regulation 35(1)(b) to (d) (earnings of employed earners) applies are paid in respect of part of a day, those earnings shall be taken into account over a period equal to a day.”.

#### **Omission of regulation 33 of the General Regulations**

8. Regulation 33 of the General Regulations (weekly amount of charitable or voluntary payment) shall be omitted.

#### **Amendment of regulation 40 of the General Regulations**

9. In regulation 40(1) of the General Regulations (calculation of income other than earnings) the reference “24(3),” and the words “treatment of charitable and voluntary payments,” shall be omitted.

#### **Amendment of regulation 46 of the General Regulations**

10. In regulation 46(1) of the General Regulations (calculation of capital), for the words beginning “regulations 24(2) and 48” to the end there shall be substituted the words “regulation 48 (income treated as capital).”.

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

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

(a) in paragraph (4), for the reference “or 12” there shall be substituted the reference “12 or 25 to 28”; and

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

“(9) Any charitable or voluntary payment which is not made or not due to be made at regular intervals, other than one to which paragraph (10) applies, shall be treated as capital.

(10) This paragraph applies to a payment—

(a) which is made to a person to whom section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act<sup>(4)</sup> (effect of return to work) or to a member of the family of such a person;

(b) to which regulation 44(2) (modification in respect of children and young persons) applies; or

(c) which is made under the Macfarlane Trust or the Independent Living Fund.”.

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

12. In regulation 51(1) of the General Regulations (notional capital) at the end there shall be added the words “except where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the claimant.”.

#### **Amendment of regulation 53 of the General Regulations**

13. In regulation 53(3) of the General Regulations (calculation of tariff income from capital) the reference “24(2),” and the words “charitable or voluntary payments,” shall be omitted.

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(4) Section 23A was added by the Social Security Act 1988 (c. 7), Schedule 4, paragraph 25.

### **Amendment of regulation 61 of the General Regulations**

14. In regulation 61 of the General Regulations (interpretation) in the definition of “education authority” after the words “Education (Scotland) Act” there shall be inserted “1980”.

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

15. In regulation 72 of the General Regulations<sup>(5)</sup> (assessment of income and capital in urgent cases)—

- (a) in paragraph (1)(a), after the words “Independent Living Fund” there shall be inserted the words “or income to which paragraph 5, 40, 42, or 44 of Schedule 9 (disregard of income other than earnings) applies”;
- (b) in paragraph (1)(c) for the words “regulations 24(1) and (2) (treatment of charitable or voluntary payments) and 48(1), (2) and (3)” there shall be substituted the words “regulation 48(1), (2), (3) and (9)”;
- (c) in paragraph (2), for the words “and 7, 9(b) and 31 of Schedule 10” there shall be substituted the words “and, except to the extent that the arrears referred to in paragraph 7 consist of arrears of housing benefit payable under Part II of the Act or Part II of the Social Security and Housing Benefits Act 1982<sup>(6)</sup>, 7, 9(b), 19, 30 and 32 of Schedule 10”.

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

16. In Schedule 1 to the General Regulations (persons not required to be available for employment)—

- (a) for paragraph 5 there shall be substituted the following paragraph—
 

“5. A person who provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976<sup>(7)</sup> (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 14, 15 or 36 of the Social Security Act, provided that an adjudication officer has not determined that that person is not incapable of work, or a person who is in receipt of statutory sick pay within the meaning of Part I of the Social Security and Housing Benefits Act 1982.”;
- (b) in paragraph 13 for the words “who is within 10 years of attaining pensionable age and” there shall be substituted the words “aged not less than 50 who”;
- (c) in paragraph 22 for the word “abroad” there shall be substituted the words “not present in the United Kingdom”.

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

17. In Schedule 2 to the General Regulations (applicable amounts), in paragraph 12—

- (a) for head (b) of sub-paragraph (1) there shall be substituted the following—
 

“(b) the circumstances of the claimant fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within paragraph 5 of Schedule 1 or, if he was in Northern Ireland for the whole or part of that period, within one or more comparable Northern Irish provisions”;
- (b) after sub-paragraph (4) there shall be added the following sub-paragraph—

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<sup>(5)</sup> See S.I. 1988/999, regulation 6, and S.I. 1988/1445, regulation 16.

<sup>(6)</sup> 1982 c. 24.

<sup>(7)</sup> S.I. 1976/615; the relevant amending instruments are S.I. 1982/699 and 1987/409.

“(5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973(8).”.

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

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

- (a) in paragraph 1 there shall be inserted after sub-paragraph (a) the following sub-paragraph—
  - “(aa) interest payments under a hire purchase agreement to buy the dwelling occupied as a home;”;
- (b) in paragraph 7(3) for the reference“(4) to (6)” there shall be substituted the reference“(3A) to (6)”;
- (c) after paragraph 7(3) there shall be added the following sub-paragraph—
  - “(3A) For the purpose of this paragraph any reference to a loan includes a reference to payments specified in paragraph 1(aa).”;
- (d) in paragraph 7(4), after the words“Subject to sub-paragraphs” there shall be inserted the reference“(3A),”;
- (e) in paragraph 7(5), (6) and (7), for the reference“sub-paragraph (3)” in each place it occurs there shall be substituted the words“sub-paragraphs (3) and (3A)”;
- (f) in paragraph 8(4), for the reference“or 20” there shall be substituted the reference“, 20 or 22 to 34”.

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

**19.** In Schedule 3A to the General Regulations(9) (protected sum)—

- (a) in paragraph 1(1), in the definition of“eligible housing benefit”, for the reference“10th April, 1989” there shall be substituted the words“10th April, 1989 which relates to the board and lodging accommodation normally occupied as the home by him or, if he has a partner, by him and his partner;”;
- (b) in paragraph 1(2)(b) at the beginning there shall be inserted the words“except in so far as it relates to any temporary absence to which paragraph 7(7) refers,”;
- (c) in paragraph 3 at the end there shall be added the following sub-paragraphs—
  - “(2) A protected sum shall not be applicable to a claimant where he, or any partner of his, has not made or is not treated as having made, a claim for housing benefit under regulation 72 of the Housing Benefit (General) Regulations 1987(10) (time and manner in which claims are to be made) for the period of 7 consecutive days beginning 10th April 1989 in respect of the board and lodging accommodation normally occupied as the home by him, or if he has a partner, by him and his partner.
  - (3) Subject to paragraph 7, a protected sum shall not be applicable to a claimant where he changes or vacates his accommodation during the period of 7 consecutive days beginning 10th April 1989.”;
- (d) in paragraph 6(b) for the word“leaves” there shall be substituted the word“vacates”;

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(8) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25.

(9) See S.I. 1988/1445, regulation 27, Schedule 1, paragraph 14 and Schedule 2.

(10) S.I. 1987/1971.

- (e) in paragraph 7(1)(b)(i) after the words“by reason of” there shall be inserted the words“old age,”;
- (f) in paragraph 7(4)(c), for the reference“(i) and (iii)” there shall be substituted the reference“(i) to (iii)”;
- (g) for paragraph 7(7) there shall be substituted the following—

“(7) Where a protected person or any partner of his is temporarily absent from his accommodation for a period not exceeding 13 weeks which includes the first week, on the protected person’s or, as the case may be, his partner’s return to that accommodation he shall be entitled to a protected sum equal to the difference between—

- (a) the amount which would have fallen to be calculated under regulation 20 as his applicable amount for the first week if he or, as the case may be, his partner had been living in that accommodation, without regard to any temporary absence, and any eligible housing benefit for the period beginning 3rd April 1989; and, if less,
- (b) either—
  - (i) if the full charge is made for the accommodation during the temporary absence, his applicable amount in the first complete week after he or, as the case may be, his partner has returned to the accommodation and any eligible housing benefit for the period beginning 10th April 1989, or
  - (ii) if no charge or a reduced charge is made for the accommodation during the temporary absence, his applicable amount in the first week after he or, as the case may be, his partner has returned to the accommodation and the amount of any housing benefit in respect of that accommodation to which he or his partner was entitled in the period of 7 consecutive days beginning on the date determined in accordance with regulation 65 of the Housing Benefit (General) Regulations 1987 (date on which entitlement is to commence) or, as the case may be, regulation 68(2) of those Regulations (date on which change of circumstances is to take effect) following his return to the accommodation.”.

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

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

- (a) in paragraph 5(1)(b)(ii) for the words“the appropriate amount” there shall be substituted the words“an amount which would be the appropriate amount” and at the end there shall be added the words“if the other member were the claimant.”;
- (b) in paragraph 6(2) for head (a) there shall be substituted the following—
  - “(a) he is registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act(11) (welfare services) or, in Scotland has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a regional or islands council; or”.

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(11) 1948 c. 29; section 29 was amended by section 1(2) of the National Assistance (Amendment) Act 1959 (c. 30); the Mental Health (Scotland) Act 1960 (c. 61), sections 113 and 114 and Schedule 4; the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2; the Employment and Training Act 1973 (c. 50), Schedule 3, paragraph 3; the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 6; and the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 10, Part I.

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

- 21.** In Schedule 7 to the General Regulations (applicable amounts in special cases)—
- (a) in column (2) for paragraph 1(d)(ii) there shall be substituted the following—
    - “(ii) the applicable amount shall be £8.25 in respect of each member plus any amounts applicable under regulation 18(1)(c), (d), (f) or (g), or (e) because of his satisfying the condition specified in paragraph 14 of Schedule 2.”;
  - (b) in column (2) for paragraph 10A(12) there shall be substituted the following paragraph—
    - “**10A.** £41.15 of which £32.90 is in respect of the cost of the accommodation and £8.25 for personal expenses plus any amounts applicable under regulation 17(1)(e) or (f)”;
  - (c) after paragraph 10B(12) there shall be inserted the following paragraph—
    - “*Lone parents who are in residential accommodation temporarily*
    - (10C) A claimant who is a lone parent who has entered residential accommodation temporarily.
      - £41.15 of which £32.90 is in respect of accommodation and £8.25 for personal expenses plus a personal allowance in respect of each child for whom he is responsible calculated under regulation 17, 20 or 21, as appropriate, plus any amount which is applicable in his case under regulation 17(1)(c), (e) or (f), or (d) in so far as it relates to lone parent premium under paragraph 8 of Schedule 2.”.

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

- 22.** In Schedule 9 to the General Regulations (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 18 for the words “member of his household” there shall be substituted the words “person who normally resides with the claimant”;
  - (b) after paragraph 40(13) there shall be added the following paragraphs—
    - “**41.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.
    - 42.** Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983(14).
    - 43.** Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.
    - 44.** Any housing benefit in the form of a community charge rebate.”.

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

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

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(12) See S.I. 1988/663; paragraphs 10A and 10B were inserted by regulation 33(b).

(12) See S.I. 1988/663; paragraphs 10A and 10B were inserted by regulation 33(b).

(13) See S.I. 1988/663, regulation 35(f), and S.I. 1988/999, regulation 5(d), for paragraphs 38 and 39 and S.I. 1988/1445, regulation 25(d), for paragraph 40.

(14) S.I. 1983/1399, amended by S.I. 1984/282 and 1986/1293.

(a) for paragraph 27(15) there shall be substituted the following paragraph—

“27. Any premises which the claimant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.”;

(b) after paragraph 31 there shall be added the following paragraphs—

“32. Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

33. Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983.

34. Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

35. Any housing benefit in the form of a community charge rebate.”.

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

21st November 1988

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

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(15) See S.I. 1988/663, regulation 36(b), and S.I. 1988/999, regulation 5(e) for paragraphs 22 to 24, S.I. 1988/910, regulation 3(b), for paragraphs 25 to 28 and S.I. 1988/1445, regulation 26(c), for paragraphs 29 to 31.



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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 provide that where a disability premium is applicable to a person, it shall continue to be applicable to him whilst he is undergoing training (regulation 17(b)) and amend the circumstances where that premium is payable (regulation 17(a)); restrict the reference to “age” in the definition of “residential care home” to old age (regulation 4); amend the provision relating to the applicable amount of blind persons and certain other persons who are in nursing or residential care homes (regulation 20); make new provision for the applicable amounts of persons in special cases, including lone parents who have entered residential accommodation temporarily (regulation 21);
- (b) they delete the provisions which treat charitable or voluntary payments in excess of £250 as income (regulations 5 to 11(a), 13 and 15(b)); provide that capital derived from a payment made in consequence of any personal injury which is placed on trust is not to be treated as a notional resource (regulation 12); specify as an eligible housing cost interest under a hire purchase agreement for the purchase of a home (regulation 18); amend the provisions under which sums are disregarded in the calculation of income and capital (regulations 22 and 23); and provide that earnings in respect of part of a day are to be attributed to a period equal to a day (regulation 7(c));
- (c) they provide in urgent cases for housing benefit, community charge rebate and payments to compensate for the loss of housing benefit and housing benefit supplement to be disregarded in calculating income and for training bonuses, refunds of tax and payments to compensate for the loss of supplementary benefit to be taken into account as capital and for arrears of housing benefit to be disregarded in such a calculation (regulation 15);
- (d) they insert a new definition of “board and lodging accommodation” and make miscellaneous amendments to the provisions in Schedule 3A by amending the definition of “eligible housing benefit” and the circumstances in which a person is a protected person, or is entitled to a protected sum, for the purposes of that Schedule with effect from 10th April 1989 (regulation 2(a) and 19);
- (e) they make miscellaneous amendments to the circumstances in which income is treated as capital (regulation 11(b)); the definitions of “polygamous marriage” (regulation 2(b)) and “education authority” (regulation 14); the circumstances in which a person is treated as engaged in remunerative work (regulation 3) and the circumstances in which a person is not required to be available for employment on account of incapacity, age or absence from United Kingdom (regulation 16).

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.