

SCHEDULE 1

Regulation 2(5)

SCHEDULE TO BE INSERTED IN THE ATTENDANCE ALLOWANCE REGULATIONS

“SCHEDULE

Regulation 7A(1)

PERSONS TO WHOM REGULATIONS 7 AND 8 APPLY WITH MODIFICATIONS

1. Subject to paragraph 3, this paragraph is satisfied in relation to a person if—
  - (a) on 31st March 1993, he was living in a home registered under the Registered Homes Act 1984<sup>(1)</sup> as a residential care home or a nursing home; or
  - (b) on 31st March 1993, he was—
    - (i) entitled either to—
      - (aa) an attendance allowance, or
      - (bb) income support and his applicable amount was calculated in accordance with regulation 19 of the Income Support (General) Regulations 1987<sup>(2)</sup> (persons in residential care and nursing homes); and
    - (ii) living in a home which was not registered under the Registered Homes Act 1984 but which on 1st April 1993 was required to be registered under that Act as a residential care home by virtue of the amendments made to it by the Registered Homes (Amendment) Act 1991<sup>(3)</sup> (which extends registration to small homes); or
  - (c) he would have been living in a home such as is mentioned in either of the preceding subparagraphs on that date but for an absence which, including that day, does not exceed—
    - (i) except in a case to which head (ii) applies—
      - (aa) where the person was before his absence a temporary resident in the home, 4 weeks, or
      - (bb) where the person was before his absence a permanent resident in the home, 13 weeks, or
    - (ii) where throughout the period of his absence he was receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975<sup>(4)</sup>, 52 weeks.
2. Subject to paragraph 3, this paragraph is satisfied in relation to a person if—
  - (a) on 31st March 1993 he was—
    - (i) entitled to—
      - (aa) an attendance allowance or the care component of a disability living allowance; or
      - (bb) income support and his applicable amount was calculated in accordance with regulation 19 of the Income Support (General) Regulations 1987 (persons in residential care and nursing homes); and
    - (ii) living in a home which was not registered under the Registered Homes Act 1984 and which would on 1st April 1993 have become registrable under that Act but for the provisions of section 1(4) of that Act as substituted by the Registered Homes (Amendment) Act 1991 (which provides that small homes need not be registered if

(1) 1984 c. 23.

(2) S.I.1987/1967: the relevant amending instruments are S.I. 1988/663, 1445, 2022, 1989/1678, 1991/1033, 1992/3147 and 1993/2119.

(3) 1991 c. 20.

(4) See regulation 2(2) of S.I. 1975/555, as amended by S.I. 1987/1683.

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all of the residents are, or are treated for the purposes of the Act as being, relatives of the proprietor); or

- (b) he would have been living in such a home on 31st March 1993 but for an absence which, including that day, does not exceed—
  - (i) except in a case to which head (ii) applies—
    - (aa) where the person was before his absence a temporary resident in the home, 4 weeks, or
    - (bb) where the person was before his absence a permanent resident in the home, 13 weeks, or
  - (ii) where throughout the period of his absence the person was receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975, 52 weeks,

and in either case he is either resident in the home on 1st August 1994 or would be so resident but for such an absence as is mentioned in paragraph (b), or has been continuously resident, disregarding any such absence, in residential accommodation to which the Registered Homes Act 1984 applies, or would apply but for section 1(4) of that Act, since 1st April 1993.

3. Paragraphs 1 and 2 shall cease to apply to a person where he is absent from a home such as is mentioned in paragraph 1(a) or (b), or 2(a) and that absence exceeds a period of—

- (a) except in a case to which sub-paragraph (b) applies—
  - (i) 4 weeks, where the person was before his absence a temporary resident in the home, or
  - (ii) 13 weeks, where the person was before his absence a permanent resident in the home; or
- (b) 52 weeks, where throughout the period of absence the person was receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975.

4. For the purposes of this Schedule a person is a permanent resident where the home in which he resides is his principal place of abode, and a temporary resident where it is not.”

SCHEDULE 2

Regulation 3(6)

SCHEDULE TO BE ADDED TO THE DISABILITY LIVING ALLOWANCE REGULATIONS

“SCHEDULE 3

Regulation 9A(1)

PERSONS TO WHOM REGULATIONS 9 AND 10 APPLY WITH MODIFICATIONS

- 1. Subject to paragraph 3, this paragraph is satisfied in relation to a person if—
  - (a) on 31st March 1993, he was living in a home registered under the Registered Homes Act 1984(5) as a residential care home or a nursing home; or
  - (b) on 31st March 1993, he was—
    - (i) entitled either to—
      - (aa) the care component of a disability living allowance, or

(5) 1984 c. 23.

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- (bb) income support and his applicable amount was calculated in accordance with(6) (persons in residential care and nursing homes); and
  - (ii) living in a home which was not registered under the Registered Homes Act 1984 but which on 1st April 1993 was required to be registered under that Act as a residential care home by virtue of the amendments made to it by the Registered Homes (Amendment) Act 1991(7) (which extends registration to small homes); or
  - (c) he would have been living in a home such as is mentioned in either of the preceding subparagraphs on that date but for an absence which, including that day, does not exceed—
    - (i) except in a case to which head (ii) applies—
      - (aa) where the person was before his absence a temporary resident in the home, 4 weeks, or
      - (bb) where the person was before his absence a permanent resident in the home, 13 weeks, or
    - (ii) where throughout the period of his absence he was receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(8), 52 weeks.
2. Subject to paragraph 3, this paragraph is satisfied in relation to a person if—
- (a) on 31st March 1993 he was—
    - (i) entitled to—
      - (aa) the care component of a disability living allowance; or
      - (bb) income support and his applicable amount was calculated in accordance with regulation 19 of the Income Support (General) Regulations 1987 (persons in residential care and nursing homes); and
    - (ii) living in a home which was not registered under the Registered Homes Act 1984 and which would on 1st April 1993 have become registrable under that Act but for the provisions of section 1(4) of that Act as substituted by the Registered Homes (Amendment) Act 1991 (which provides that small homes need not be registered if all of the residents are, or are treated for the purposes of the Act as being, relatives of the proprietor); or
  - (b) he would have been living in such a home on 31st March 1993 but for an absence which, including that day, does not exceed—
    - (i) except in a case to which head (ii) applies—
      - (aa) where the person was before his absence a temporary resident in the home, 4 weeks, or
      - (bb) where the person was before his absence a permanent resident in the home, 13 weeks, or
    - (ii) where throughout the period of his absence the person was receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975, 52 weeks,
- and in either case he is either resident in the home on 1st August 1994 or would be so resident but for such an absence as is mentioned in paragraph (b), or has been continuously resident, disregarding any such absence, in residential accommodation to which the

(6) S.I. 1987/1967: the relevant amending instruments are S.I. 1988/663, 1445, 2022, 1989/1678, 1991/1033, 1992/3147 and 1993/2119.

(7) 1991 c. 20.

(8) See regulation 2(2) of S.I. 1975/555, as amended by S.I. 1987/1683.

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Registered Homes Act 1984 applies, or would apply but for section 1(4) of that Act, since 1st April 1993.

**3.** Paragraphs 1 and 2 shall cease to apply to a person where he is absent from a home such as is mentioned in paragraph 1(a) or (b), or 2(a) and that absence exceeds a period of—

(a) except in a case to which sub-paragraph (b) applies—

(i) 4 weeks, where the person was before his absence a temporary resident in the home,

(ii) 13 weeks, where the person was before his absence a permanent resident in the home;

or

(b) 52 weeks, where throughout the period of absence the person was receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975.

**4.** For the purposes of this Schedule a person is a permanent resident where the home in which he resides is his principal place of abode, and a temporary resident where it is not.”