STATUTORY INSTRUMENTS

1981 No. 1016

SOCIAL SECURITY

The Supplementary Benefit (Requirements and Resources) Amendment Regulations 1981

Laid before Parliament in draft

Made - - - -	14*th July* 1981
Coming into Operation	27*th July* 1981

Whereas a draft of the following regulations was, in accordance with section 33(3) of the Supplementary Benefits Act 1976(**a**), laid before Parliament and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services, with the consent of the Treasury, in exercise of the powers conferred upon him by paragraphs 1(2) and 2(1) and (4) of Schedule 1 to the Supplementary Benefits Act 1976 and of all other powers enabling him in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it (**b**), hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Requirements and Resources) Amendment Regulations 1981 and shall come into operation on 27th July 1981.

Amendment of the Supplementary Benefit (Requirements) Regulations 1980

2.—(1) This regulation shall amend the Supplementary Benefit (Requirements) Regulations 1980(**c**).

(2) In regulation 2(1) (interpretation) in the definition of "prisoner" for the words from "a person" to the end there shall be substituted the words "any person whose detention in a prison, remand centre, borstal institution or detention centre is for the time being authorised by law;".

(3) In regulation 5 (normal requirements of relevant persons and householders) after paragraph (1) there shall be inserted the following paragraphs:—

(**a**) 1976 c.71; the Act (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) as amended is set out in Part II of Schedule 2 to the Social Security Act 1980 (c.30).
(**b**) *See* the Social Security Act 1980 section 10(2)(*b*).
(**c**) S.I. 1980/1299; the relevant amending instrument is S.I. 1980/1774.

"(1A) Paragraph 1 of the table (long-term rate for couples) shall have effect as if in the second column—

(*a*) after the words 'the aggregate of the' there were inserted the words 'higher of the two'; and

(*b*) after the words 'Social Security Pensions Act 1975 and' there were inserted the words 'of the sum for the time being specified in'.

(1B) Paragraph 3 of the table (long-term rate for householders) shall have effect as if in the second column for the words 'The sum' there were substituted the words 'The higher of the two sums'.".

(4) In regulation 8 (modification of normal requirements in certain cases of actual or notional unemployment benefit disqualification)—

(*a*) in sub-paragraph (*c*) of paragraph (2) after the words "by 40 per cent." there shall be added the words "of the ordinary rate for the time being specified in the said sub-paragraph (*b*)"; and

(*b*) in sub-paragraph (*b*) of paragraph (4)—

(i) for the words "a claim" there shall be substituted the words "the claim", and

(ii) the words from "in respect of" to "question" shall be omitted.

(5) In regulation 9 (modification of normal requirements of boarders)—

(*a*) in sub-paragraph (*a*) of paragraph (1) for the words "paragraphs (6) and (7)" there shall be substituted the words "paragraph (7)";

(*b*) after paragraph (1) there shall be inserted the following paragraphs:—

"(1A) Where any part of the amount for board and lodging is met by a rent allowance under Part II of the Housing Finance Act 1972 or Part II of the Housing (Financial Provisions) (Scotland) Act 1972 an amount equal to the part so met shall be deducted from the aggregate amount applicable under paragraph (1).

(1B) Where an award is to be made in respect of a period of less than one week, pursuant to regulation 6(2)(*b*) of the Supplementary Benefit (Determination of Questions) Regulations 1980 (**a**) the requirements applicable to the claimant under this regulation shall include the weekly amount to which paragraph (1)(*a*) applies if the weekly charge for board and lodging falls due during that period.";

(*c*) after the words "pursuant to" in both paragraphs (3)(*a*) and (8) there shall be inserted the words "paragraph 1(*a*) or 3(*a*) of the table or to";

(*d*) in sub-paragraph (*d*) of paragraph (4) after head (vi) there shall be inserted the following heads:—

"(vii) he is a person suffering from a mental disorder within the meaning of the Mental Health Act 1959 or the Mental Health (Scotland) Act 1960 in respect of whom a local social services authority has, pursuant to section 21 of, and paragraph 2 of Schedule 8 to, the National Health Service Act 1977 (prevention, care and aftercare), made arrangements for the provision of residential accommodation in a private household or premises which are not required to be registered under the Residential Homes Act 1980,

(viii) he is a person who is resident in premises which are used for the rehabilitation of alcoholics or drug addicts,";

(*e*) paragraph (6) and sub-paragraph (*a*) of paragraph (9) shall be omitted.

(**a**) S.I. 1980/1643.

(6) In regulation 10 (modification of normal requirements in special cases)—

(*a*) in paragraph (2) after the words "of the table" there shall be inserted the words ", regulation 9 and paragraphs";

(*b*) in paragraph (3A)—

(i) the words "to whom paragraph 2 of Schedule 2 (patients) applies" shall be omitted; and

(ii) for the words from ", the amount" to the end of the paragraph there shall be substituted "and—

(*a*) he is a person staying in accommodation provided as mentioned in any of sub-paragraphs (*a*) to (*c*) of paragraph (4) and paragraph 1 of Schedule 2 (residential accommodation) does not apply to him by reason only that his stay in that accommodation has not, in the opinion of the benefit officer, become other than temporary; or

(*b*) he is a person to whom paragraph 2 of Schedule 2 (patients) applies,

the amount applicable for his normal requirements may be increased to take account of the retaining fee.";

(*c*) after sub-paragraph (*c*) in paragraph (4) there shall be added:—

"so however that a person under the age of 18 who is in the care of a local authority pursuant to Part II or III of the Social Work (Scotland) Act 1968 (promotion of social welfare, children in need of care) shall not be treated as being in residential accommodation.".

(7) In paragraph (2) of regulation 12 (heating)—

(*a*) for sub-paragraph (*d*) there shall be substituted the following sub-paragraph:—

"(*d*) where—

(i) an item in column (1) of paragraph 1 applies in respect of more than one member of an assessment unit, only one amount shall be applicable in respect of that item,

(ii) more than one of the items in column (1) of paragraphs 1 and 2 applies in respect of a member, or members, of an assessment unit, the amount applicable to the claimant under both of those paragraphs shall be the amount specified in column (2) of paragraph 1(2);";

(*b*) in head (ii) of sub-paragraph (*g*) after the words "part only" there shall be inserted the words "or none";

(*c*) after sub-paragraph (*h*) there shall be added the following sub-paragraph:—

"(*i*) where column (1) of paragraph 6 applies in respect of more than one member of an assessment unit an amount shall be applicable to the claimant under column (2) of that paragraph in respect of each such member.".

(8) In regulation 14 (housing requirements)—

(*a*) in paragraph (3)(*a*) after head (iv) there shall be added the following head:—

"(v) which he in practice shares with one or more other members of the household, not being close relatives of his, at least one of whom is responsible under one of the preceding heads of this sub-paragraph,

and for which the benefit officer is satisfied that it is reasonable in the circumstances to treat him as sharing responsibility,";

(*b*) in paragraph (5)—

(i) in sub-paragraph (*a*) the words "or 9" shall be omitted,

(ii) in sub-paragraph (*b*) after the words "to whom" there shall be inserted the words "regulation 9 or", and for the words ", 9 and 10" there shall be substituted the words "and 9 to 11",

(iii) after sub-paragraph (*c*) there shall be added the following sub-paragraph:—

"(*d*) to whom paragraph 9 of Schedule 2 (prisoners) applies, except that this sub-paragraph shall not apply in the case of any person remanded in custody or committed in custody for trial or to be sentenced.".

(9) In regulation 15 (rent) after sub-paragraph (*b*) of paragraph (7) there shall be added the following sub-paragraph:—

"(*c*) by way of mesne profits.".

(10) In regulation 19 (miscellaneous outgoings)—

(*a*) in paragraph (*e*) for the reference to "regulation 14(3)" there shall be substituted a reference to "regulation 15(3)";

(*b*) in paragraph (*g*) for the words "mentioned in preceding paragraphs" there shall be substituted "mentioned in this Part".

(11) In paragraph (5) of regulation 20 (special cases)—

(*a*) in sub-paragraph (*b*) the words "other than a local authority" shall be omitted;

(*b*) for the words from "be increased up to a maximum" to "otherwise be applicable" there shall be substituted the words "be increased—

(i) in a case where the landlord is a local authority, up to a maximum of twice the amount which would otherwise be applicable,

(ii) in any other case, up to a maximum of 4 times that amount.".

(12) In paragraph (5) of regulation 22 (reduction in amounts applicable for certain occupants of the home)—

(*a*) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph:—

"(*b*) for a non-dependant who is giving residential assistance in respect of which an amount under paragraph 14(1) of column (2) of Schedule 3 (additional requirements, domestic assistance) either is applicable or would be applicable—

(i) but for the application of regulation 13(3) (member of the assessment unit affected by a trade dispute); or

(ii) if the assistance given by the non-dependant were not provided by a local authority;";

(*b*) after sub-paragraph (*b*) there shall be added the following sub-paragraph:—

"(*c*) in respect of a non-dependant or group of non-dependants—

(i) whose usual home is, in the opinion of the benefit officer, elsewhere, and

(ii) in respect of whom an amount under regulation 23 (non-householder's contribution) is not applicable.".

(13) In Schedule 2 (modification of normal requirements in special cases)—

(*a*) in column (3) of paragraph 1(*b*) for the words "the sum" there shall be substituted the words "the higher of the two sums";

(*b*) in column (3) of paragraph 2 for sub-paragraph (*a*) there shall be substituted the following sub-paragraph:—

"(*a*) 40 per cent. of the long-term rate for householders plus, if he has a dependant, the amount of the increase specified in sub-paragraph (*c*) in this column;";

(*c*) in column (3) of paragraph 5 for the words from "by 30 per cent." to "householders" as from 23rd November 1981 there shall be substituted the words "by the amount for the time being specified in regulation 9(8)(*b*)(i)";

(*d*) in paragraph 6—

(i) in column (2) for the words "Paragraphs 3 and 4" there shall be substituted the words "Paragraphs 1 to 4",

(ii) in column (3) for the words from "increased" to the end of the paragraph there shall be substituted the words "increased—

(*a*) where column (1) of this paragraph applies to either a relevant person or his partner (but not both), by the ordinary rate for couples;

(*b*) in any other case, in respect of personal expenses, by one-third of the ordinary rate for householders.".

(14) In Schedule 3 (additional requirements)—

(*a*) in column (1) of paragraph 3 for the words "living and dining" there shall be substituted the words "living or dining";

(*b*) in column (1) of paragraph 4 after the words "a separate charge" there shall be inserted "not subject to rebate or surcharge";

(*c*) in column (1) of paragraph 16 for sub-paragraph (*a*) there shall be substituted the following sub-paragraph—

"(*a*) either—

(i) A and B are not members of the same assessment unit but either were members of the same household prior to the hospitalisation of B or are close relatives, or

(ii) B's partner is also in a hospital or similar institution and A is a dependant of either B or B's partner;";

(*d*) in sub-paragraph (*a*) of column (2) of paragraph 16 for the words from "except that" to the end of the sub-paragraph there shall be substituted the words "except that—

(iii) the amount allowed under this sub-paragraph in respect of journeys undertaken by taxi shall be, if public transport is not available or if the person concerned is unable to use other transport by reason of physical disability, the cost of the taxi fare, and in any other case the cost of second-class public transport by the method appropriate to the case, and

(iv) no amount shall be allowed under this sub-paragraph in respect of costs incurred in travel outside Great Britain;";

(*e*) in column (2) of paragraph 16 for sub-paragraphs (*b*) to (*e*) there shall be substituted the following sub-paragraphs:—

"(*b*) an amount determined in accordance with sub-paragraph (*a*) in

this column reduced, where the rate of normal requirements applicable to B or his partner is—

(i) the long-term rate for couples, by £10·75,

(ii) the ordinary rate for couples, by £7·75;

(*c*) an amount determined in accordance with sub-paragraph (*a*) in this column reduced, where the rate of normal requirements applicable to B or his partner is—

(i) the long-term rate for couples, by £5·50,

(ii) the ordinary rate for couples, by £2·50;

(*d*) an amount determined in accordance with sub-paragraph (*a*) in this column but, in a case falling within sub-paragraph (*d*)(i) in column (1), that amount reduced, where B is aged—

(i) not less than 18, by £11·50,

(ii) less than 18 but not less than 16, by £7·75,

(iii) less than 16 but not less than 11, by £5·50,

(iv) less than 11, by £1·75;

(*e*) the amount determined in accordance with sub-paragraph (*a*) in this column but, in a case falling within sub-paragraph (*e*)(i) in column (1), that amount reduced, where the rate of normal requirements applicable to B is—

(i) the long-term rate for householders, by £21·75,

(ii) the ordinary rate for householders, by £15·75,

(iii) the long-term rate for non-householders, by £16·25,

(iv) the ordinary rate for non-householders, by £11·50.".

Amendment of the Supplementary Benefit (Resources) Regulations 1980

3.—(1) This regulation shall amend the Supplementary Benefit (Resources) Regulations 1980 (**a**).

(2) In regulation 2 (interpretation)—

(*a*) in paragraph (1), in the definition of "student" for the words "left school" there shall be substituted the words "ceased relevant education";

(*b*) after paragraph (3) there shall be added the following paragraph:—

"(4) Any reference in these regulations—

(*a*) to the fostering of a child is a reference to a child or any other person to whom and in circumstances to which regulation 4(2)(*e*) or (*f*) of the Supplementary Benefit (Aggregation) Regulations 1980 (**b**) (child or person in relevant education boarded out by a local authority or voluntary organisation or in care and possession of prospective adoptive parent) applies;

(*b*) to a payment by or derived from a liable relative shall not include a reference to a payment derived from the estate of a deceased liable relative.".

(3) In regulation 3 (calculation of resources), in paragraph (2)(*d*)(i), for the words from "to which regulation 9(2)(*c*)" to the end there shall be substituted the words "in which it is received".

(**a**) S.I. 1980/1300; the relevant amending instrument is S.I. 1980/1774.
(**b**) S.I. 1980/982; the relevant amending instrument is S.I. 1981/815.

(4) In regulation 4 (notional resources)—

(*a*) in paragraph (3) (resources not yet paid) for the reference to "Paragraph (2)" there shall be substituted a reference to "Paragraph (2)(*b*)";

(*b*) in paragraph (7) (discretionary trusts) the words from ", unless that person is a dependant" to the end shall be omitted;

(*c*) after paragraph (7) there shall be inserted the following paragraph:—

"(7A) A person shall not be treated as possessing a resource pursuant to paragraph (7) if the trust funds are derived from a payment, whether in pursuance of a court order or otherwise, in consequence of a personal or criminal injury to that person, except that if that person is a claimant or the partner of a claimant this paragraph shall apply only for the period, not normally exceeding 12 months from the date on which the payment would, but for this paragraph, fall to be taken into account for the purposes of a claim for supplementary pension or allowance or a review of a determination pursuant to regulations made under section 14(2)(*d*), for which, having regard to the intentions of the trustees, it is reasonable that he shall not be treated as so possessing a resource.".

(*d*) in paragraph (9) (seasonal workers), for the words "regulation 20 of" to the end there shall be substituted the words "regulation 19 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975 (**a**) (additional conditions with respect to the receipt of unemployment benefit by seasonal workers) but as if the definition of employment in that regulation included a reference to employment as a self-employed earner.".

(5) In regulation 10 (calculation of earnings), in paragraph (1)—

(*a*) in sub-paragraph (*i*), the words "and in this sub-paragraph" to the end shall be omitted;

(*b*) for sub-paragraph (*k*) there shall be substituted the following sub-paragraph:—

"(*k*) in respect of a person who is without employment for any period in circumstances in which section 8(1) and (2) (persons affected by trade disputes) applies—

(i) where he receives earnings to which regulation 9(1)(*b*) of the Supplementary Benefit (Conditions of Entitlement) Regulations 1980 (**b**) (effect of last earnings from remunerative full-time work) applies and those earnings are more than the amount equal to twice the requirements which would (but for section 8) be applicable to the assessment unit, for the first week in which, pursuant to that regulation 9(1)(*b*), he is not treated as being in remunerative full-time work, the difference between those earnings and that amount,

(ii) any sum or payment to which paragraph (2)(*b*) or (*d*) would, but for this sub-paragraph, apply;".

(6) In regulation 11 (calculation of other income)—

(*a*) in paragraph (2)—

(i) in sub-paragraph (*a*), the words from "any payment made" to "1975 (**a**) and" shall be omitted;

(**a**) S.I. 1975/564; regulation 19 was amended by S.I. 1979/940.
(**b**) S.I. 1980/1586; the relevant amending instrument is S.I. 1981/815.

(ii) in sub-paragraph (*l*), after the word "authority" there shall be inserted the words ", including any part which is paid in respect of a partner or a dependant under the Education (Students' Dependants Allowances) Regulations 1980 (**a**), other than regulation 6(5), or the Students'Allowances (Scotland) Regulations 1971 (**b**)",

(iii) in sub-paragraph (*n*), there shall be added at the end the words "except that, if such capital, were it not so disregarded, would fall to be disregarded under regulation 6(2), paragraph (4)(*l*) shall apply to any such income and this sub-paragraph shall not apply";

(*b*) in paragraph (4)—

(i) for sub-paragraph (*d*)(ii) there shall be substituted the following head:—

"(ii) to a student in respect of a partner or a dependant under regulation 6(5) of the Education (Students' Dependants Allowances) Regulations 1980 (eligible dependants outside the United Kingdom);",

(ii) for sub-paragraph (*e*) there shall be substituted the following sub-paragraph:—

"(*e*) any payment made in respect of a person in relevant education under section 81(*c*) of the Education Act 1944 (**c**) or section 2(1) of the Education Act 1962 (**d**) or section 49(1) of the Education (Scotland) Act 1980 (**e**) (payments by education authorities to persons over compulsory school age) to the extent only that it does not exceed in the case of a person attending a school £7·50 and in any other case £9·50, the amount of any excess being taken into account in full;",

(iii) in sub-paragraph (*g*) the words "and in this sub-paragraph" to the end shall be omitted,

(iv) in sub-paragraph (*i*) for the words "to the extent that" to the end there shall be substituted the words "except that, if such payment exceeds £20, the amount of the excess shall be taken into account in full;",

(v) in sub-paragraph (*j*), for the words "a television licence" to the end there shall be substituted the words "the provision of either a leisure or amenity item or an item for which provision is not made in the amount applicable for normal requirements and in respect of which, in the determination of the claimant's additional or housing requirements, either—

(i) no amount is applicable, or

(ii) an amount is applicable but the payment is for an item of which the cost is in excess of that amount,

and in a case to which head (ii) applies only the amount of the difference between the amount applicable and the amount used shall be disregarded under this sub-paragraph;";

(*c*) in paragraph (5), for the reference to "regulation 6(1)(*a*)(i) or (ii)" there shall be substituted a reference to "regulation 6(1)(*a*)(ii)".

(**a**) S.I. 1980/1111.
(**b**) S.I. 1971/124.
(**c**) 1944 c.31.
(**d**) 1962 c.12; section 2(1) was substituted by section 19 of and Schedule 5 to the Education Act 1980 (c.20).
(**e**) 1980 c.44.

Patrick Jenkin,
Secretary of State for Social Services.

9*th July* 1981.

We consent,

John Wakeham,
J. A. Cope,
Two of the Lords Commissioners of Her Majesty's Treasury.

14*th July,* 1981.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations amend the regulations made under the Supplementary Benefits Act 1976 (as extensively amended by the Social Security Act 1980) which govern the determination of requirements and resources.

Regulation 2 amends the Supplementary Benefit (Requirements) Regulations 1980. In regulation 2 of those regulations the definition of "prisoner" is amended to exclude persons who would otherwise be "patients". Regulation 5 is amended to modify further the table in Schedule 1 to the 1976 Act. Regulation 8 (modification of normal requirements in cases of actual or notional unemployment benefit disqualification) is amended in particular to provide for the personal expenses of boarders to be reduced by 40 per cent. of the ordinary rate of normal requirements for single persons. Regulation 9 is amended to abolish the special provisions for calculating the modified normal requirements of residents in Abbeyfield Homes, to provide for abatement of the amount for board and lodging by the amount of any rent allowance payable to the claimant and for payment of the weekly charge for board and lodging when it falls due while the claimant is entitled to benefit for part only of a week, and to increase the maximum amount for board and lodging in respect of persons in certain types of accommodation who are suffering from a mental disorder and persons living in premises used for the rehabilitation of alcoholics and drug addicts. Regulation 10 is amended to enable the normal requirements of boarders to be further modified in special cases, to provide for the payment of a retaining fee for board and lodging accommodation where a boarder goes temporarily into residential accommodation and to exclude children in care in Scotland from being treated as persons in residential accommodation. The provisions of regulation 12 are amended to adjust the circumstances in which more than one amount may be applicable by way of an additional requirement for heating. Regulation 14 is amended to limit the circumstances in which housing requirements may be applicable to boarders and to enable housing requirements to be applicable in respect of a prisoner remanded in custody for trial or sentence, and of members of the same household who in practice share expenses. Regulation 15 is amended to provide for mesne profits to be treated as rent and regulation 19 is amended in particular to increase the class of items by analogy to which an amount may be applicable. Regulation 20 is amended to allow for the payment of up to a week's rent in advance where the assessment unit has moved into rented accommodation and the landlord is a local

authority. Regulation 22 is amended to provide that a reduction in housing requirements is not to be made in respect of a non-dependant who is providing residential assistance or has his normal home elsewhere. In Schedule 2 amendment is made to the provisions relating to the calculation of modified normal requirements of persons in residential accommodation, in hospital and in accommodation provided pursuant to the Polish Resettlement Act 1947, and of persons attending residential re-establishment courses. Schedule 3 is amended in particular to adjust the circumstances in which an additional requirement may be applicable in respect of heating costs and to clarify the provisions governing the calculation of an additional requirement in respect of fares for hospital visits.

Regulation 3 amends the Supplementary Benefit (Resources) Regulations 1980. Regulation 2 of those regulations (interpretation) is amended in particular so that the definition of "student" applies to persons in full-time education who have ceased "relevant education" (the term used in the Act) instead of who have left school, and so as to restrict the provisions on income from fostering children to payments made in respect of children and young persons in relevant education boarded out by local authorities and voluntary organisations or in the care of prospective adoptive parents. Regulation 3 (which provides that resources are to consist of capital and income) is amended so that a repayment of income tax made to a person affected by a trade dispute is to be taken into account as income in the week in which it is received. The provisions of regulation 4 (notional resources) which relate to trusts under which trustees have a discretion are modified in relation to any such trusts derived from payments in consequence of personal or criminal injuries; and the provisions which relate to seasonal workers are extended to such workers who are self-employed. The provision in regulation 10 which relates to the calculation of the earnings of persons affected by a trade dispute is amended so as to apply only to such persons during the currency of the trade dispute and to align it with provisions on final earnings in the Supplementary Benefit (Conditions of Entitlement) Regulations 1980. The provisions in regulation 11 which relate to the calculation of income other than earnings and payments by liable relatives are amended in particular so as to provide that the income of certain students in respect of partners and dependants is taken into account in full and to extend the disregard of certain income from capital, of certain payments made by education authorities (other than grants to students) and of any payment made and used for any leisure or amenity item or item for which in the calculation of benefit either no provision is made or provision is made but of an amount less than the cost of the item.

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