STATUTORY INSTRUMENTS

1985 No. 613

SOCIAL SECURITY

The Supplementary Benefit (Requirements and Resources) Miscellaneous Provisions Regulations 1985

Laid before Parliament in draft

Made - - -	15*th April* 1985
Coming into Operation	29*th April* 1985

The Secretary of State for Social Services, with the consent of the Treasury(**a**), in pursuance of paragraph 2 of Schedule 1 to the Supplementary Benefits Act 1976(**b**) and in exercise of powers conferred by sections 1(3), 2(1A) and (2), 33(5) and 34(1)(**c**) of that Act and sub-paragraphs (1), (3) and (4) of that paragraph and of all other powers enabling him in that behalf after reference to the Social Security Advisory Committee of the proposals other than those which the Committee have agreed should not be referred to it(**d**), hereby makes the following regulations of which a draft has, in accordance with section 33(3) of that Act been laid before Parliament and approved by resolution of each House of Parliament:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Requirements and Resources) Miscellaneous Provisions Regulations 1985 and shall come into operation on 29th April 1985.

(2) In these regulations "the Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations 1983(**e**).

Definition of "close relative" in the Requirements Regulations

2. For the definition of "close relative" in regulation 2(1) of the Requirements Regulations (interpretation) there shall be substituted the following definition —

> " "close relative" means parent, son, daughter, step-parent, step-son, step-daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law or sister-in-law;".

(**a**) *See* section 33(3) of the Supplementary Benefits Act 1976 (c.71).
(**b**) 1976 c.71, as amended by section 6(1) of and Part I of Schedule 2 to the Social Security Act 1980 (c.30) and section 25 of and Part III of Schedule 8 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41).
(**c**) *See* the definitions of "prescribed" and "regulations".
(**d**) *See* sections 9 and 10 of the Social Security Act 1980.
(**e**) S.I. 1983/1399; the relevant amending instruments are S.I. 1984/282, 1102, 2034.

Revocation of temporary provisions as to boarders

3. Regulation 3 of the Supplementary Benefit (Requirements) Amendment and Temporary Provisions Regulations 1984(**a**) (temporary provisions as to boarders) is hereby revoked.

New arrangements as to boarders

4.—(1) For paragraph (6) of regulation 9 of the Requirements Regulations (maximum amounts) there shall be substituted the following paragraph —

"(6) Subject to paragraphs (7) and (17), the maximum amount in respect of the assessment unit as a whole referred to in paragraph (1)(*a*) shall be the aggregate of the following amounts —

(*a*) in respect of each member of the assessment unit who is a dependant aged less than 11, $1\frac{1}{2}$ times the amount referred to in paragraph (5)(*c*); and

(*b*) in respect of each other member of the assessment unit, the appropriate amount specified in or as the case may be determined in accordance with Schedule 1A.".

(2) In paragraph (7) of regulation 9 of the Requirements Regulations for the words "Subject to paragraphs (8) and (16), in " there shall be substituted the words "Subject to paragraphs (8) and (17), where the accommodation provided for the claimant is accommodation to which paragraphs 4 or 6 of Schedule 1A relate (hostels and ordinary board and lodging) being".

(3) In paragraph (9) of regulation 9 of the Requirements Regulations after the words "in paragraph (6)(*a*)" there shall be added the words "or a partner calculated in the manner referred to in paragraph 6(3) of Schedule 1A".

(4) In paragraph (12) of regulation 9 of the Requirements Regulations for the words "The allowance for personal expenses referred to in paragraph (1)(*b*) shall be —" there shall be substituted the words —

"Subject to paragraph (17)(*e*), the allowance for personal expenses referred to in paragraph (1)(*b*) for any member of the assessment unit aged not less than 18 or a claimant or partner aged less than 18 but not less than 16, in a residential care home or a nursing home shall be £8.50 and in any other case shall be — ".

(5) For paragraphs (14) and (15) of regulation 9 of the Requirements Regulations there shall be substituted the following paragraph —

"(14) Notwithstanding paragraph (13), a person shall not be a boarder for the purposes of this regulation if he is a person to whom any paragraph of Schedule 2A applies.".

(**a**) S.I. 1984/2034.

(6) After paragraph (16) of regulation 9 of the Requirements Regulations there shall be added the following paragraph:—

"(17)(*a*) Notwithstanding the provisions of paragraphs (6) to (14), sub-paragraphs (*b*) to (*g*) below shall have effect where the claimant was in receipt of supplementary benefit as a boarder immediately before 29th April 1985, or would have been in receipt of such benefit but for the claimant's temporary absence from his accommodation in circumstances as set out in sub-paragraph (*h*) below and, subject to that sub-paragraph (*h*), continues after that date to be a boarder in the same accommodation; and for the purposes of this paragraph, a claimant to whom sub-paragraphs (*b*), (*c*), (*d*) or (*e*) below applies who changes his accommodation shall nevertheless be deemed to be in the same accommodation if the accommodation he moves to is a residential care home or a nursing home or both.

(*b*) Where —

(i) the accommodation is a residential care home or a nursing home, and

(ii) the claimant or his partner had attained pensionable age on or before 29th April 1985,

the appropriate amount for the purposes of paragraph (6) shall be the weekly amount determined to be appropriate under paragraph (1)(*a*) prior to that date (hereinafter in this paragraph referred to as "the protected amount") so long as the protected amount exceeds the amount that would otherwise be the appropriate amount under that paragraph (6).

(*c*) Where —

(i) the accommodation is a residential care home, a nursing home or a hostel, and

(ii) in the case of a residential care home, or a nursing home, the claimant or his partner has not attained pensionable age on or before 29th April 1985,

the appropriate amount for the purposes of paragraph (6) shall, until the period ending on 28th April 1986, be the protected amount so long as the protected amount exceeds the amount that would otherwise be the appropriate amount under that paragraph (6), unless in any particular case or class of case the Secretary of State determines that such period shall be extended.

(*d*) Where —

(i) the accommodation is a residential care home or a nursing home, and

(ii) the claimant is in receipt of attendance allowance which by virtue of regulation 11(4A) of the Resources Regulations (**a**) does not fall to be disregarded, and

(**a**) Added by regulation 4(12) of the Supplementary Benefit (Requirements and Resources) Miscellaneous Provisions Regulations 1985 (S.I. 1985/613).

(iii) immediately prior to 29th April 1985 the claimant was able to meet out of resources disregarded under regulation 11(4)(*b*) of the Resources Regulations, in whole or in part, the balance of the actual charge for such accommodation over the maximum amount determined under paragraph (6), and

(iv) after the coming into operation of the Supplementary Benefit (Requirements and Resources) Miscellaneous Provisions Regulations 1985(**a**) there continues to be such a balance to be met,

for the purposes of paragraph (6), the appropriate amount shall be increased by such amount, not exceeding the amount of such balance, as could be met out of those resources immediately prior to the said 29th April 1985 as will enable such balance to be met, in whole or in part, as aforesaid, provided that, in the case of a person who has not attained pensionable age on or before that date, no such increase shall be made after 28th April 1986, unless in any particular case or class of case the Secretary of State determines that such increase shall be paid after 28th April 1986.

(*e*) Where the accommodation is a residential care home or a nursing home, the allowance for personal expenses for the purposes of paragraph (12) shall be the amount of the allowance for personal expenses payable by virtue of that paragraph prior to the 29th April 1985 so long as that amount exceeds the appropriate allowance specified in that paragraph.

(*f*) Where the accommodation is accommodation to which paragraph 6 of Schedule 1A relates (ordinary board and lodging) the appropriate amount for the purposes of paragraph (6) during the specified periods referred to below shall be the protected amount so long as that amount exceeds the amount that would otherwise be the appropriate amount under that paragraph (6); and for the purposes of this sub-paragraph the specified periods shall be —

(i) the period until 28th April 1986, in a case where the protected amount includes an increase under paragraph (7); or

(ii) in any other case, a period ending 13 weeks after the adjudication officer's decision as to the claimant's entitlement to supplementary benefit following the coming into operation of the Supplementary Benefit (Requirements and Resources) Miscelleneous Provisions Regulations 1985) ("review decision").

(*g*) Where the claimant is a person to whom paragraph 5 of Schedule 2A applies (persons under 26 who are available for employment), the period during which sub-paragraph (1) of

(**a**) S.I. 1985/613.

that paragraph is not to have effect by virtue of sub-paragraph (2) of that paragraph, shall be a period ending either 4 weeks or as the case may be 8 weeks after the review decision depending on whether the accommodation in question is in a board and lodging area in relation to which the appropriate initial period for the purpose of that sub-paragraph (2) is respectively either a period of 4 weeks or less, or as the case may be a period of more than 4 weeks.

(*h*) The provisions of this paragraph shall have effect notwithstanding the temporary absence of a person from —

(i) a hostel for not more than 13 weeks; or

(ii) a residential care home or a nursing home for not more than either 12 months in the case of a person who is of pensionable age or, for not more than 13 weeks in the case of a person who is under pensionable age; or

(iii) accommodation to which paragraph 6 of Schedule 1A relates (ordinary board and lodging) for not more than either 4 weeks or, in a case where the protected amount includes an increase under paragraph (7), 13 weeks,

except, in the case of (iii) above, where that person is a person to whom paragraph 5(2) of Schedule 2A applies (a boarder during an initial period).".

(7)(*a*) In paragraph (5) of regulation 10 of the Requirements Regulations (residential accommodation) for all the words from "under the age of 18" to "children in need of care)" there shall be substituted the words "to whom paragraph (5A)(*a*) or (*b*) applies" and for sub-paragraph (*c*) there shall be substituted the following —

"(*c*) in residential accommodation by a local social services authority under section 21 of, and paragraphs 1 or 2 of Schedule 8 to, the National Health Service Act 1977 (care of mothers and young children, prevention, care and after-care) but in the case of such accommodation under the said section 21 and paragraph 2 only where the accommodation is in premises registered under the provisions of Part I of the Registered Homes Act 1984 (registration of residential care homes) other than in premises which although so registered are used for the rehabilitation of alcoholics and drug addicts.".

(*b*) Immediately after paragraph (5) of that regulation there shall be inserted as paragraph (5A) the following —

"(5A) For the purposes of paragraph (5) this paragraph applies to a person —

(*a*) who is under the age of 18 and who is in the care of a local authority under Part II or III of the Social Work (Scotland) Act 1968(**a**) (promotion of social welfare, children in need of care), or

(**a**) 1968 c.49.

(*b*) who is staying in a residential care home as defined in paragraph 7(1) of Schedule 1A provided under the provisions referred to in sub-paragraphs (*b*) or (*c*) of paragraph (5) where the weekly cost of such accommodation exceeds the maximum amount provided for under regulation 9(6) in respect of such accommodation and where the local authority accept responsibility for the making of arrangements for the provision of such accommodation for that person in the light of that person being entitled to such maximum amount as a boarder under and by virtue of that regulation provided that in the case of a person over pensionable age, the local authority had accepted such responsibility for a period of not less than 2 years immediately before that person attained pensionable age.".

(8) After Schedule 1 to the Requirements Regulations there shall be inserted as Schedule 1A the Schedule set out in Schedule 1 to these regulations.

(9) In column (*b*) of Case C in Schedule 2 to the Requirements Regulations there shall be deleted —

(*a*) all the words from "(and for this purpose" to "as one)"; and

(*b*) paragraphs (1), (2), (3), (5) and (6).

(10) After Schedule 2 to the Requirements Regulations there shall be inserted as Schedule 2A the Schedule set out in Schedule 2 to these regulations.

(11) In Schedule 3 to the Requirements Regulations (modification of normal requirements in special cases) there shall be added the following paragraph —

"*Certain persons under 26 who are not treated as boarders*		
15. Person aged under 26 but not less than 16 who is not a boarder by virtue of regulation 9(14) and paragraph 5(1) of Schedule 2A and who is —	15. Paragraphs 1 to 4 of the table and paragraphs 1 and 2 of Schedule 1.	15.(*a*) The ordinary rate for non-householders under paragraphs 1 or 2, as appropriate, of Schedule 1;
(*a*) a single claimant;		
(*b*) a relevant person.		(*b*) the ordinary rate for couples specified in paragraph A of Schedule 1;
		together with, in the case of a claimant aged 21 or over, the amount specified in regulation 23(1).".

(12) Regulation 11 of the Supplementary Benefit (Resources) Regulations 1981(**a**) (calculation of other income) shall be amended by —

(*a*) inserting the words "subject to paragraph (4A)" before the words "attendance allowance" in sub-paragraph (*b*) of paragraph (4), and

(*b*) inserting after paragraph (4) the following paragraph —

"(4A)(*a*) Subject to the following sub-paragraphs of this paragraph, income resources to which paragraph (4)(*b*) applies which are paid or payable to a boarder in accommodation to which paragraphs 1, 2 and 3 of Schedule 1A (residential care homes and nursing homes) to the Supplementary Benefit (Requirements) Regulations 1983(**b**) relate, shall not be disregarded.

(*b*) The amount of income resources not to be disregarded by virtue of this paragraph shall not exceed the amount of the higher rate of attendance allowance payable under section 35(3) of the Social Security Act.

(*c*) Sub-paragraphs (*a*) and (*b*) above shall not have effect before 29th July 1985 in the case of such a person who was in receipt of supplementary benefit immediately before 29th April 1985 or would have been in receipt of such benefit but for that person's temporary absence from his accommodation in circumstances as set out in regulation 9(17)(*h*)(ii) or (iii) of those regulations(**c**).".

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

Tony Newton,
Minister of State,
Department of Health and Social Security.

10th April 1985.

We consent,

John Major,
A. G. Hamilton,
Two of the Lords Commissioners of
Her Majesty's Treasury.

15th April 1985.

(**a**) S.I. 1981/1527, to which there are amendments not relevant to these regulations.
(**b**) S.I. 1983/1399; the relevant amending instrument is S.I. 1985/613.
(**c**) Added by regulation 4(6) of the Supplementary Benefit (Requirements and Resources) Miscellaneous Provisions 1985 (S.I. 1985/613).

SCHEDULE 1 Regulation 4(8)

SCHEDULE 1A Regulation 9(6)(*b*)

MAXIMUM AMOUNTS FOR BOARDERS

Residential care homes

1.—(1) Subject to paragraphs 3 and 5, where the accommodation provided for the claimant is a residential care home for persons in need of personal care by virtue of—

(*a*) old age, the appropriate amount shall be £110.00 per week; or

(*b*) past or present mental disorder but excluding mental handicap, the appropriate amount shall be £120.00 per week; or

(*c*) past or present drug or alcohol dependence, the appropriate amount shall be £120.00 per week; or

(*d*) mental handicap, the appropriate amount shall be £140.00 per week; or

(*e*) physical disablement, the appropriate amount, in the case of persons to whom sub-paragraph (2) below, applies shall be £170.00 per week or, in any other case, shall be £110.00 per week; or

(*f*) any other condition not falling within sub-paragraphs (*a*) to (*e*) above, the appropriate amount shall be £110.00 per week.

(2) For the purposes of (*e*) above, this sub-paragraph applies to persons under pensionable age, or persons over pensionable age who before attaining pensionable age had become physically disabled.

Nursing homes

2.—(1) Subject to paragraphs 3 and 5, where the accommodation provided for the claimant is a nursing home for persons in need of personal care by virtue of—

(*a*) past or present mental disorder but excluding mental handicap, the appropriate amount shall be £148.60 per week; or

(*b*) mental handicap, the appropriate amount shall be £168.60 per week; or

(*c*) past or present drug or alcohol dependence, the appropriate amount shall be £148.60 per week; or

(*d*) physical disablement, the appropriate amount, in the case of persons to whom sub-paragraph (2) below applies, shall be £198.60 per week or, in any other case, shall be £138.60 per week; or

(*e*) terminal illness, the appropriate amount shall be £198.60 per week; or

(*f*) any other condition not falling within sub-paragraphs (*a*) to (*e*) above, the appropriate amount shall be £138.60 per week.

(2) For the purposes of (*d*) above, this sub-paragraph applies to persons under pensionable age, or persons over pensionable age who before attaining pensionable age had become physically disabled.

3.—(1) Where the accommodation provided for the claimant is —

(*a*) both a residential care home and a nursing home, or

(*b*) a residential care home or a nursing home

being a home for, or a home registered under the Registered Homes Act 1984 for, persons in need of personal care by virtue of any two or more of the physical or mental conditions referred to in paragraphs 1 or 2, the appropriate amount shall be as set out in the following sub-paragraphs of this paragraph.

(2) Where the home is so registered and where the personal care that the claimant is receiving in that accommodation corresponds to a category of personal care for which that accommodation is so registered, the appropriate amount shall be that amount, subject to paragraph 5, in paragraphs 1 or 2, as the case may be, as is consistent with that personal care.

(3) Where the home is so registered but where the personal care that the claimant is receiving in that accommodation does not correspond to any of the categories of personal care for which the accommodation is so registered, the appropriate amount shall be the lesser amount, subject to paragraph 5, in paragraphs 1 or 2, as the case may be, that is consistent with those categories.

(4) In any other case not coming within sub-paragraphs (2) or (3) above, the appropriate amount shall be that amount, subject to paragraph 5, in paragraph 1 or 2, as the case may be, having regard to the nature of the personal care that the home provides, as is consistent or reasonably consistent with the personal care that the claimant is receiving in that accommodation.

Hostels

4. Subject to paragraph 5, where the accommodation provided for the claimant is a hostel, the appropriate amount shall be £70.00 per week.

5.—(1) Any amounts specified in paragraphs 1, 2 or 4 shall cease to be applicable if having regard to prevailing conditions and circumstances such amount is no longer appropriate, in which case the appropriate amount for the purposes of those paragraphs shall be the amount determined in accordance with sub-paragraph (2) below.

(2) Any question as to whether any amount is no longer appropriate or as to the appropriate amount for the purposes of sub-paragraph (1) above shall be determined by the Secretary of State in his discretion; and his decision of such questions —

(*a*) shall be given generally and not in relation to a particular case;

(*b*) may be revised from time to time as he considers desirable;

(*c*) may make different provisions for different classes of case or otherwise for different circumstances;

(*d*) shall be published in such form as he considers suitable; and

(*e*) shall be conclusive for the purposes of this Schedule.

Ordinary board and lodging accommodation.

6.—(1) Subject to sub-paragraphs (2) and (3) below, where the accommodation provided for the claimant is not a residential care home, a nursing home or a hostel, the appropriate amount shall be the amount specified as appropriate under sub-paragraph (2) below for the board and lodging area in which that accommodation is situated.

(2) Any question as to the location of board and lodging areas and as to the amount appropriate for each board and lodging area for the purposes of sub-paragraph (1) above shall be determined by the Secretary of State in his discretion; and his decision of such questions —

(*a*) shall be given generally and not in relation to a particular case;

(*b*) may be revised from time to time as he considers desirable;

(*c*) may make different provisions for different classes of case or otherwise for different circumstances;

(*d*) shall be published in such form as he considers suitable; and

(*e*) shall be conclusive for the purposes of this Schedule.

(3) In the case of a relevant person in accommodation to which this paragraph applies with no dependant aged less than 11, the appropriate amount in respect of the claimant's partner shall be three quarters of the amount that is the appropriate amount for the claimant.

7.—(1) In regulation 9 and in this Schedule —

"hostel" means a building not being a residential care home or a nursing home, wherein is provided for persons generally or for a class of persons residential accommodation (otherwise than in separate and self-contained premises) and either board or facilities for the preparation of food adequate to the needs of those persons, or both which is —

(*a*) managed by a housing association registered with the Housing Corporation established by the Housing Act 1964(**a**); or

(**a**) 1964 c.56.

(*b*) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or

(*c*) managed by a voluntary body or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community; or

such other establishment of like nature as the Secretary of State may determine shall be treated as a hostel for the purposes of regulation 9 and this Schedule.

"nursing home" means any premises within the meaning of sections 21 or 22 of the Registered Homes Act 1984(**a**), or premises maintained or controlled by a body instituted by special Act of Parliament or incorporated by Royal Charter, or in Scotland, a nursing home as defined in section 10 of the Nursing Homes Registration (Scotland) Act 1938(**b**) or a private hospital within the meaning of the Mental Health (Scotland) Act 1960(**c**);

"residential care home" means an establishment —

(*a*) registered under Part I of the Registered Homes Act 1984 including such a home which but for section 1(4) of that Act would be registered; or

(*b*) in respect of which an application to so register has been made and until registration or refusal of registration, provided that the home or its manager or its proprietor has not been previously refused registration or had registration terminated; or

(*c*) that is run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or

(*d*) that is managed or provided by a body constituted by Act of Parliament or incorporated by Royal Charter; or

(*e*) in Scotland, which is a home registered under section 61 of the Social Work (Scotland) Act 1968(**d**) or is an establishment provided by a housing association registered with the Housing Corporation established by the Housing Act 1964(**e**) which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968.

(2) In paragraphs 1 and 2 the expressions, "old age", "mental disorder", "mental handicap", "drug or alcohol dependence" and "physical disablement" shall have the same meanings as those expressions have for the purposes of the Registered Homes Act 1984 and regulations made thereunder.

(**a**) 1984 c.23. (**b**) 1938 c.73. (**c**) 1960 c.61.
(**d**) 1968 c.49. (**e**) 1964 c.56.

Regulation 4(10) SCHEDULE 2

SCHEDULE 2A Regulation 9(14)

PERSONS WHO ARE NOT BOARDERS FOR THE PURPOSES OF REGULATION 9

1. A person whose accommodation and meals (if any) are provided in whole or in part by a close relative or other than on a commercial basis.

2. A person who is in the opinion of the adjudication officer on holiday and during a period which has not yet continued for more than 13 weeks is absent from the home or from a hospital or similar institution in which he is normally a patient.

3. A person who in the opinion of the adjudication officer has entered into arrangements referred to in paragraph (13) of regulation 9 (meaning of "boarder") made for the purpose of taking advantage of that regulation.

4. A person who is aged under 19 but not less than 16 and is in the care of a local authority under the provisions of a relevant enactment, except such a person who is personally liable to pay the cost of his accommodation and maintenance direct to someone other than a local authority.

5.—(1) Subject to sub-paragraphs (2) to (5) below, a person who —

(*a*) is aged under 26 but not less than 16 and, if a relevant person, whose partner is also under 26 but not less than 16 and

(*b*) is required to be available for employment.

(2) Sub-paragraph (1) above shall not have effect in respect of such a person during the initial period (including the initial period as extended under sub-paragraph (5) below) determined under sub-paragraph (3) below as appropriate in respect of the board and lodging area determined under paragraph 6(2) of Schedule 1A, in which that person's accommodation is situated.

(3) Any question as to the number of weeks in the initial period for the purposes of sub-paragraph (2) above, in relation to each board and lodging area determined under paragraph 6(2) of Schedule 1A, shall be determined by the Secretary of State in his discretion; and his decision of such question —

(*a*) shall be given generally and not in relation to a particular case;

(*b*) may be revised from time to time as he considers desirable;

(*c*) may make different provisions for different classes of case or otherwise for different circumstances;

(*d*) shall be published in such form as he considers suitable; and

(*e*) shall be conclusive for the purposes of this Schedule.

(4) Sub-paragraph (1) above shall not have effect also where such a person —

(*a*) has a dependant; or

(*b*) is in a hostel; or

(*c*) is, or has a partner who is, pregnant; or

(*d*) is, or has a partner who is, chronically sick, mentally handicapped, physically disabled or suffering from a mental disorder or was, or has a partner who was suffering from a mental disorder and it is unreasonable to expect him or his partner to be in accommodation other than as a boarder; or

(*e*) had, or has a partner who had prior to the date of claim been in the accommodation for six months whilst either in employment and not in receipt of supplementary benefit, or, if not in employment and in receipt of supplementary benefit, was not required to be available for employment; or

(*f*) has, or has a partner who has, entered that accommodation as part of a programme of rehabilitation or resettlement under guidance from a government department, health authority, local authority, voluntary organisation or the probation and after-care service; or

(*g*) being a student, during periods when he is on vacation for any period constituting normal vacation from full-time education provided he occupies the same accommodation as he occupied when attending that full-time education course; or

(*h*) has, or has a partner who has, been in the care of a local authority under a relevant enactment and twelve months has not elapsed since he or his partner ceased to be in care; or

(*i*) is aged under 19 but not less than 16 and —

(i) has no parent and there is no person acting in the place of his parent; or

(ii) has had to leave his family home because he was in physical or moral danger; or

(iii) is in the care of a local authority under the provisions of a relevant enactment, being a person who is personally liable to pay the cost of his accommodation and maintenance direct to someone other than a local authority.

(5) Where during an initial period a person becomes employed and not in receipt of supplementary benefit or is no longer required to be available for employment and is in receipt of supplementary benefit, that initial period shall be extended by the period during which that person is employed or is no longer required to be available for employment provided he is in the same board and lodging area determined under paragraph 6(2) of Schedule 1A.

6.—(1) A person who was for a period a boarder by virtue of sub-paragraph (2) of paragraph 5 (during an initial period) and in respect of whom the relevant period has not elapsed.

(2) For the purposes of this paragraph "the relevant period" means the period of 26 weeks from the first day of the benefit week in which benefit is payable in respect of 7 days following the adjudication officer's decision involving a determination that that person is a boarder by virtue of that sub-paragraph.

7. In this Schedule —

"hostel" has the same meaning given to it in paragraph 7(1) of Schedule 1A;

"initial period" means that period determined by the Secretary of State under paragraph 5(2) consisting of a week or multiple of weeks beginning with the first day of the benefit week in which the benefit is payable in respect of 7 days following the adjudication officer's decision involving a determination that the person concerned is a boarder by virtue of paragraph 5(2), being a week or multiple of weeks that correspond to benefit weeks during which the person is required to be available for employment;

"relevant enactment" means the Social Work (Scotland) Act 1968(**a**), the Family Law Reform Act 1969(**b**), the Children and Young Persons Act 1969(**c**), the Matrimonial Causes Act 1973(**d**), the Guardianship Act 1973(**e**), the Children Act 1975(**f**), the Domestic Proceedings and Magistrates Courts Act 1978(**g**), or the Child Care Act 1980(**h**).

(**a**) 1968 c.49. (**b**) 1969 c.46. (**c**) 1969 c.54.
(**d**) 1973 c.18. (**e**) 1973 c.29. (**f**) 1975 c.72.
(**g**) 1978 c.22. (**h**) 1980 c.5.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Supplementary Benefit (Requirements) Regulations 1983 in relation to maximum amounts for board and lodging accommodation.

Regulation 3 revokes regulation 3 of the Supplementary Benefit (Requirements) Amendment and Temporary Provisions Regulations 1984 (temporary provisions as to boarders) and in regulation 4 replaces those provisions with new arrangements. Maximum amounts for board and lodging in respect of persons in residential care homes or nursing homes are specified in the regulations by reference to the type of personal care provided by the homes. A national maximum amount is specified for residence in a hostel. For those in ordinary board and lodging accommodation ie accommodation which is not a residential care home, nursing home or hostel the maximum amount is to be determined by the Secretary of State in relation to board and lodging areas throughout Great Britain.

The regulations provide that persons under 26 are not to be boarders for the purposes of the regulations except during certain initial periods determined under the regulations in respect of each board and lodging area and in certain specified cases as for example in cases of pregnancy, or for those with dependants, or for those who are chronically sick or physically or mentally disabled. The amount of personal allowance for those in residential care homes and nursing homes is fixed at £8.50 per week. Other amendments include provisions relating to the rates payable to certain persons who are not boarders by virtue of these regulations, provide for taking into account of attendance allowance as a resource in certain circumstances or make other related changes of a consequential or minor nature.

The regulations further make provision for transitional arrangements for those in board and lodging accommodation immediately before 29th April 1985.

The report of the Social Security Advisory Committee dated 6th February 1985 on the proposals to make these regulations with the statement dated 18th March 1985 showing the extent to which the regulations give effect to the Committee's recommendations and, in so far as they do not give effect to them, the reasons why not, are contained in Command Papers Nos 9466 and 9467 respectively published by Her Majesty's Stationery Office. The Committee agreed not to have referred to them proposals to amend the definition of a close relative and the provision relating to accommodation and meals provided by a close relative (regulation 2 and paragraph 1 of Schedule 2A as in Schedule 2 to these regulations).

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