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STATUTORY INSTRUMENTS

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**1988 No. 521**

**SOCIAL SECURITY**

**The Income Support (Transitional)  
Amendment Regulations 1988**

<i>Made</i>	- - - -	<i>16th March 1988</i>
<i>Laid before Parliament</i>		<i>16th March 1988</i>
<i>Coming into force</i>	- -	<i>11th April 1988</i>

The Secretary of State for Social Services in exercise of the powers conferred on him by sections 84(1) and 89(1) of the Social Security Act 1986<sup>(1)</sup> and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential on sections 20 to 23 of that Act in their application to income support and Regulations made under those sections and is made before the end of a period of 12 months from the commencement of those sections, makes the following Regulations:—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Income Support (Transitional) Amendment Regulations 1988 and shall come into force on 11th April 1988.

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

**Insertion of regulation 4A into the Transitional Regulations**

2. After regulation 4 of the Transitional Regulations (deeming of claims for income support) there shall be inserted the following regulation —

**“Payments on account of income support**

**4A.**—(1) Where, by virtue of regulation 4 (deeming of claims by former beneficiaries), a person’s entitlement to income support, for a period commencing in the week beginning 11th April 1988, falls to be determined as if a claim for it had been duly made and no determination has been made by that date, the Secretary of State may make a payment on account of income support and the amount of such payment shall be offset by the

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(1) 1986 c. 50; section 84(1) is cited because of the meaning assigned to the word “regulations”.  
(2) S.I.1987/1969.

adjudicating authority in reduction of any income support, any transitional payment of income support under regulation 7 (transitional payments for former beneficiaries) and any addition under Part II, subsequently awarded.

(2) Where a payment on account has been made under paragraph (1) and the adjudicating authority determines that there is no entitlement to income support, or that the entitlement is less than the amount of the payment on account, that authority shall determine the amount of the overpayment.

(3) The amount of any overpayment determined under paragraph (2) shall be recoverable by the Secretary of State by the same procedures and subject to the same conditions as if it were recoverable under section 53(1) of the Act (overpayments).

(4) A payment on account under this regulation may be made by means of an instrument of payment or such other means as appears to the Secretary of State to be appropriate in the circumstances of any particular case and, notwithstanding the repeal of any enactment, may be made by an instrument of payment or book of serial orders issued for the purpose of paying supplementary benefit.”.

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

3. In regulation 5 of the Transitional Regulations (questions deemed to have been determined and treatment of income) at the end there shall be added the following paragraph—

“(6) For the purposes of determining a claimant’s entitlement to income support for a period commencing on or after 11th April 1988, regulation 43 of the General Regulations (notional earnings of seasonal workers) shall apply for the purposes of determining a person’s earnings in the period of his off-season or last period of normal employment beginning before that date as if that regulation and Parts IV and V of the General Regulations (applicable amounts and income and capital) were in force throughout that period.”.

### **Insertion of new regulation 7A into the Transitional Regulations**

4. After regulation 7 of the Transitional Regulations (transitional payments for former beneficiaries) there shall be inserted the following regulation —

#### **“Transitional payments for persons claiming supplementary benefit**

7A.—(1) Except where regulation 7 applies (transitional payments for former beneficiaries), where a person makes a claim for supplementary benefit in the week commencing 4th April 1988 and, but for regulation 7(1)(a) of the Supplementary Benefit (Determination of Questions) Regulations 1980<sup>(3)</sup> (date of commencement of entitlement), he would have been entitled to supplementary benefit for a week beginning with the day on which the claim is made, he shall, if —

- (a) he is entitled to income support on the first day of his second benefit week; and
- (b) he is a person to whom income support is payable in arrears,

be entitled to a transitional payment of income support in respect of a period of, or two consecutive periods of, 7 days determined in accordance with paragraph (2).

(2) For the purposes of paragraph (1) —

- (a) in the case of an unemployed person, the transitional payment shall be in respect of two consecutive periods of 7 days commencing with the first day of his second benefit week;

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(3) S.I. 1980/1643; relevant amending instruments are S.I. 1981/815, 1982/207, 1983/337 and 1984.458.

(b) in any other case, the transitional payment shall be in respect of the period of 7 days commencing with the first day of his second benefit week.

(3) Subject to paragraph (4), the amount of the transitional payment in respect of any such period shall be equal to the amount of income support payable in arrears for the benefit week or, in the case of a claimant whose entitlement to income support is for a period of less than a benefit week, the amount which would have been payable had he been entitled to income support for the benefit week, commencing in the same calendar week as the period of seven days in respect of which the transitional payment is made.

(4) Where a person is entitled to income support for a period falling before the first day of his second benefit week, the amount of the transitional payment shall be reduced by the amount of income support payable for that period.

(5) The transitional payment shall be made in advance and, in a case to which paragraph (2)(a) applies, the transitional payment may be made in two instalments if it appears to the Secretary of State to be appropriate in the circumstances of the particular case.

(6) In calculating the income of a person entitled to a transitional payment under this regulation for the purpose of determining his entitlement to income support in respect of any day for which income support becomes payable to him in arrears there shall be disregarded any transitional payment payable to him under this regulation.

(7) Where a person is entitled to a transitional payment under this regulation or, but for his being a person to whom income support is payable in advance, would have been so entitled, Part II shall apply to him —

(a) as if he were a former beneficiary who had been entitled to supplementary benefit in the first benefit week; and

(b) as if that benefit week began on the day on which the claim for supplementary benefit was made.

(8) Where paragraph (7) applies, the amount of supplementary benefit to which that person is, for the purposes of Part II, to be treated as entitled shall be equal to the amount which would have been payable in the first benefit week had he been entitled to supplementary benefit for that week.”.

#### **Amendment of regulation 9 of the Transitional Regulations**

5. In regulation 9 of the Transitional Regulations (total benefit income) —

(a) in paragraph (2) at the end there shall be added the words “but this paragraph shall not apply where the change of circumstances is the admission to hospital of the person in his second benefit week”;

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

“(9) For the purposes of paragraph (1)(a) or (6)(a), where a claimant is a person to whom regulation 8 of the Requirements Regulations or regulation 22 of the General Regulations (reductions in certain cases of unemployment disqualification) applies, the amount of supplementary benefit or income support to be taken into account shall be the amount to which the claimant would have been entitled but for that regulation.”.

#### **Amendment of regulation 11 of the Transitional Regulations**

6. In regulation 11(2) of the Transitional Regulations (special provisions for patients) at the end there shall be added the words “and the amount of his partner’s total benefit income in his partner’s second benefit week”.

### **Amendment of regulation 12 of the Transitional Regulations**

7. In regulation 12 of the Transitional Regulations (special provisions for persons in board and lodging accommodation and hostels)

- (a) in paragraph (1) for the words “a period of less than 13 weeks which includes his first and second benefit weeks” there shall be substituted the words “a period not exceeding 13 weeks which includes his first or second benefit week (or both)”;
- (b) in paragraph (4) after the words “Regulation 14(3)” there shall be inserted the words “and (4)”.

### **Amendment of regulation 13 of the Transitional Regulations**

8. In regulation 13 of the Transitional Regulations (special provisions for persons in residential care and nursing homes) —

- (a) in paragraph (3) after the words “paragraph (2)” there shall be inserted the words “(6) or (8)”;
- (b) in paragraph (4) —
  - (i) the words “except in the circumstances specified in paragraph 16 or 18 of column (1) of Schedule 7 to the General Regulations (applicable amounts in special cases)” shall be omitted;
  - (ii) at the end there shall be added the words “except where he ceases or, as the case may be, he and his family cease, to reside in the home in the circumstances specified in paragraph 16 or 18 of column (1) of Schedule 7 to the General Regulations (applicable amounts in special cases) and he intends or, as the case may be, they intend to return to the home”;
- (c) in paragraph (5) for the words “first and second benefit weeks” there shall be substituted the words “first or second benefit week (or both)”;
- (d) in paragraph (8) for the words from and including “a transitional addition” to the end there shall be substituted the following —
  - “(a) a transitional addition equal to the amount to which he was entitled immediately before his period of temporary absence less, if his applicable amount would have increased had he not been absent, the amount of the increase; and for the purposes of this sub-paragraph, any increase in the amount of personal expenses where a personal expenses addition is in payment shall be disregarded;
  - (b) a personal expenses addition equal to the amount to which he was entitled immediately before his period of temporary absence less, if the amount of personal expenses applicable in his case under paragraph 13 of Schedule 4 to the General Regulations would have increased had he not been absent, the amount of that increase.”.

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

9. In regulation 14 of the Transitional Regulations (reduction and termination of transitional and personal expenses addition) —

- (a) in paragraph (1)(a) at the end there shall be added the words “but this sub-paragraph shall not apply to an increase to which regulation 13(3) applies (increase in personal expenses)”;
- (b) in paragraph (1)(b) after the words “transitional addition” there shall be inserted the words “or, as the case may be, to a transitional addition and special transitional addition”;
- (c) after paragraph (1) there shall be added the following paragraphs —

“(1A) Notwithstanding paragraph (1)(a) or (d) where regulation 22 of the General Regulations (reductions in applicable amounts) ceases to apply to the claimant and as a result his applicable amount increases, his transitional addition shall not be reduced by the amount of that increase.

(1B) Notwithstanding paragraph (1) (a) or (d) where a person has entered accommodation referred to in any of sub-paragraphs (a) to (d) of the definition of residential accommodation in regulation 21(3) of the General Regulations (special cases), or a residential care home or nursing home, for a period of 8 weeks or less and as a result his applicable amount increases, his transitional addition shall not be reduced by the amount of that increase.”;

- (d) in paragraph (3) for all the words after the word “shall”, there shall be substituted the words —

“if he becomes re-entitled to income support not more than 8 weeks after the day on which he has ceased to be so entitled, in the benefit week in which he becomes re-entitled, be re-entitled to a transitional addition of an amount equal to the amount of the transitional addition to which he was previously entitled subject to any reduction in that amount which would have occurred under paragraph (1)(a) had he remained entitled to income support.”.

- (e) in paragraph (4) for all the words after the word "shall," there shall be substituted the words —

“if not more than 8 weeks after the day on which he ceased to be so entitled neither the reason in sub-paragraph (a) nor (b) applies to him, be re-entitled to a transitional addition of an amount equal to the amount by which his total benefit income in his first benefit week exceeds his total benefit income in the benefit week in which neither sub-paragraph applies to him, or the amount to which he was previously entitled, whichever is the lower.”.

### **Amendment of regulation 15 of the Transitional Regulations**

#### **10. In regulation 15 of the Transitional Regulations (special transitional addition) —**

- (a) in paragraph (1) —

- (i) after the words “Part IV of the General Regulations (applicable amounts)” there shall be inserted the words “in his second benefit week”;
- (ii) at the end there shall be added the words “(if any)”;

- (b) in paragraph (3), after sub-paragraph (b) there shall be added the following —

“or

- (c) in the case of a claimant who is entitled to income support as well as a transitional addition he ceases to be entitled to income support and a transitional addition for a reason other than that his applicable amount under Part IV of the General Regulations does not exceed his income; or
- (d) in the case of a claimant who is entitled to a transitional addition and a special transitional addition he would not, if he claimed, be entitled to income support for a reason other than that his applicable amount under Part IV of the General Regulations does not exceed his income; or
- (e) he would, but for this sub-paragraph, be entitled only to a special transitional addition and he would not, if he claimed, be entitled to income support for a reason other than that his applicable amount does not exceed his income; or
- (f) the amount of his special transitional addition is reduced to nil by virtue of paragraph (2).”;

- (c) in paragraph (4) —

- (i) for sub-paragraph (a) there shall be substituted the following sub-paragraph —
  - “(a) by virtue of paragraph (3)(a), (c), (d) or (e) he shall be re-entitled to such an addition of the same amount as previously if, not more than 8 weeks after the day on which he ceased to be so entitled, he becomes re-entitled to income support or a transitional addition;”;
- (ii) in sub-paragraph (b) for the words from and including “within 8 weeks” to the end there shall be substituted the words “not more than 8 weeks after the day on which his applicable amount fell to be determined under the provisions of the General Regulations referred to in paragraph (3)(b), those provisions ceased to apply to him.”;
- (iii) after sub-paragraph (b) there shall be added the following sub-paragraph —
  - “(c) by virtue of paragraph (3)(f) he shall be re-entitled to such an addition of the same amount as previously if not more than 8 weeks after the day on which he ceased to be so entitled the reason for the cessation ceased to apply to him.”.

#### **Amendment of regulation 16 of the Transitional Regulations**

**11.** In regulation 16 of the Transitional Regulations (persons not entitled to transitional additions) after paragraph (2) there shall be added the following paragraph —

“(3) A prisoner within the meaning of regulation 21(3) of the General Regulations (special cases) shall not be entitled to a transitional addition, personal expenses addition or special transitional addition.”.

#### **Consequential amendment of regulation 7C of the Child Benefit (General) Regulations 1976**

**12.** In regulation 7C of the Child Benefit (General) Regulations 1976<sup>(4)</sup> for the words “a supplementary allowance under the Supplementary Benefits Act 1976” there shall be substituted the words “income support under Part II of the Social Security Act 1986<sup>(5)</sup>”.

Signed by authority of the Secretary of State for Social Services

16th March 1988

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

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<sup>(4)</sup> S.I. 1976/965; the relevant amending instrument is S.I. 1980/1045.

<sup>(5)</sup> 1986 c. 50.

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## EXPLANATORY NOTE

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

These Regulations amend the Income Support (Transitional) Regulations 1987 to make further provision consequential on the introduction of income support.

They amend Part I to provide for the making of payments on account of income support where a former beneficiary's entitlement has not been determined by 11th April 1988 (regulation 2); for the making of a transitional payment to persons who would, but for their benefit week commencing after that date, have been former beneficiaries and for treating them as such for the purposes of Part II (regulation 4); and for calculating the earnings of seasonal workers before that date (regulation 3).

They also amend Part II in the following respects:

- (a) they provide for a person's benefit income, in cases of voluntary unemployment, to be calculated as if there had been no reduction in his requirements or applicable amount and for disregarding a person's admission to hospital in his second benefit week (regulation 5);
- (b) they make provision for the benefit income of a partner who is a patient to be taken into account in calculating the claimant's transitional addition (regulation 6); for persons temporarily absent from board and lodging accommodation or residential care or nursing homes in either their first or second benefit week to be entitled on return to the addition and for the reduction of the personal expenses addition granted in such cases (regulations 7 and 8(a) and (c)); for persons absent from such homes to retain their additions only if they intend to return to the home; and for calculating the amount of the addition on return (regulation 8(b) and (d));
- (c) they also make provision for the transitional addition not to be reduced where there has been an increase in the personal expenses allowance or a person has temporarily entered residential accommodation or, in cases of voluntary unemployment, where the reduction in a person's applicable amount ceases to apply; for its reduction in cases where the claimant is entitled to both a transitional and special transitional addition; and make certain minor amendments to the provisions for re-entitlement to the addition (regulation 9);
- (d) in addition they provide for the cessation of the special transitional addition where a claimant is entitled only to a transitional or special transitional addition, or both to the addition and income support; and for re-entitlement to the addition in such cases (regulation 10); for prisoners not to be entitled to any addition (regulation 11); and substitute in the Child Benefit (General) Regulations 1976 for the reference to supplementary benefit a reference to income support (regulation 12).

These Regulations contain only provisions consequential on sections 20 to 23 of the Social Security Act 1986 in their application to income support and are made before the expiry of 12 months from the commencement of those sections. Accordingly, the Regulations are exempt, by section 61(5) of that Act from reference to the Social Security Advisory Committee and have not been so referred.