
STATUTORY INSTRUMENTS

1992 No. 3147

The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations 1992

PART II

INCOME SUPPORT

Preserved rights

3.—(1) In regulation 19 of the Income Support Regulations (applicable amounts for persons in residential care and nursing homes)—

- (a) in paragraph (1), for the words preceding the words “his weekly applicable amount”, there shall be substituted the words—

“(1) Subject to regulation 22 (reduction of applicable amounts) where a claimant has a preserved right and either—

- (a) lives in a residential care or nursing home; or
(b) is a member of a family and he and the members of his family live in such a home;”;

- (b) after paragraph (1ZA)^{MI} there shall be inserted the following paragraphs—

“(1ZB) In this regulation a person has a preserved right, subject to paragraphs (1ZE) and (1ZF), where—

- (a) on 31st March 1993, he was living in a residential care home or a nursing home, and—

(i) was entitled to income support for the benefit week in which that day fell and his applicable amount was calculated in accordance with Part I of Schedule 4; or

(ii) was not in that week entitled to income support because he was able to meet the cost of the accommodation from other sources available to him, but subsequently becomes entitled to income support; or

- (b) he would have been living in a residential care home or nursing 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 absence the person was a patient, 52 weeks,

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and the provisions of sub-paragraph (a) would have applied to him but for that absence.

(1ZC) Subject to paragraphs (1ZD), (1ZE) and (1ZF), a person also has a preserved right where—

- (a) on 31st March 1993 he was living in a residential care home or nursing home within the meaning of paragraph (3) as then in force, and was entitled to income support but his applicable amount was not calculated in accordance with Part I of Schedule 4 because he was a person to whom paragraph 14 of Schedule 4 applied (accommodation provided by a close relative); and
- (b) after 31st March 1993, either—
 - (i) he moved from the home in which he was residing on that date to another residential care home or nursing home, or
 - (ii) the ownership of the home changed,

and in the home to which he moved, or as the case may be, following the change of ownership, the accommodation and meals (if any) are provided for him by a person other than a close relative of his or by any member of his family, and are provided on a commercial basis.

(1ZD) Where a person has a preserved right under paragraph (1ZC), that right shall commence on the first full day of residence in the residential care home or nursing home to which he moved, or as the case may be, the day after the ownership of the property changed.

(1ZE) A person does not have a preserved right by virtue of paragraph (1ZB)(a)(ii) or (1ZC) where the residential care home in which he was living provided both board and personal care for less than 4 persons.

(1ZF) Paragraphs (1ZB) and (1ZC) shall cease to apply to a person who has a preserved right where he is absent from a residential care home or nursing home 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 a patient.

(a) (1ZG) A person who acquired a preserved right under paragraph (1ZB) or (1ZC) shall cease to have that right where either—

- (i) he moves from the home he resided in, or would but for an absence specified in paragraph (1ZB)(b) have resided in, on 31st March 1993 to another residential care home or nursing home, or
- (ii) the ownership of that home changes;

and in the home to which he moves or, as the case may be, following the change of ownership, the accommodation and meals (if any) are provided for him by a close relative of his, or by a member of his family, and are provided otherwise than on a commercial basis;

(b) a preserved right acquired under paragraph (1ZB) or (1ZC) which ceased to apply to a person in accordance with sub-paragraph (a) shall, notwithstanding that paragraph, revive and again apply in his case where—

(i) he moves from the home mentioned in sub-paragraph (a)(i)

to another residential care home or nursing home, or

(ii) the ownership of that home changes, or in the case of a home mentioned in sub-paragraph (a)(ii), changes again,

and in the home to which he moves or, as the case may be, following the change or further change of ownership, the accommodation and meals (if any) are provided for him otherwise than by a close relative of his, or by a member of his family, and are provided on a commercial basis.

(1ZH) For the purposes of paragraphs (1ZB) and (1ZF) a person is a permanent resident in a residential care home or nursing home where the home is his principal place of abode, and a temporary resident where it is not.

(1ZJ) For the avoidance of doubt, the expression “residential care home” in paragraphs (1ZB) and (1ZE) has the meaning it bore on 31st March 1993.”

Marginal Citations

M1 Paragraph (1ZA) was inserted by [S.I. 1991/1033](#).

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 7(4)(za) inserted by [S.I. 1993/518 reg. 4\(2\)\(a\)](#)
- reg. 8(4)(za) inserted by [S.I. 1993/518 reg. 4\(3\)\(a\)](#)