
STATUTORY INSTRUMENTS

1995 No. 310

**The Social Security (Incapacity Benefit)
(Transitional) Regulations 1995**

PART IV

**PROVISIONS FOR THE TRANSITION TO
INCAPACITY BENEFIT FROM INVALIDITY BENEFIT**

Transitional awards of long-term incapacity benefit

17.—(1) Where a person is entitled to invalidity benefit immediately before the appointed day, that award of invalidity benefit shall have effect on or after the appointed day as if it were an award of long-term incapacity benefit; and such an award shall be referred to in these Regulations as a transitional award of long-term incapacity benefit.

(2) Subject to the provisions in Part VI, a person's entitlement to a transitional award of long-term incapacity benefit shall be subject to him being incapable of work as determined in accordance with Part XIIA of the 1992 Act (incapacity for work) ^{M1}.

(3) A person who reaches pensionable age before the appointed day and who is entitled to a transitional award of long-term incapacity benefit under paragraph (1) shall continue to be entitled to that award on any day that he is incapable of work as determined in accordance with Part XIIA of the 1992 Act for as long as he is not more than 5 years over pensionable age^[F1] or until the first day on which he is entitled to retirement pension, whichever date is the earlier].

(4) Where a person reaches pensionable age on or after the appointed day, entitlement to a transitional award of long-term incapacity benefit shall terminate on his attaining pensionable age.

Textual Amendments

F1 Words in reg. 17(3) inserted (6.1.1997) by [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#), regs. 1(1), 3(3)

Marginal Citations

M1 Part XIIA was inserted into the Social Security Contributions and Benefits Act 1992 by section 5 of the Social Security (Incapacity for Work) Act 1994.

[F2] Awards of incapacity benefit in cases where periods of interruption of employment and periods of incapacity for work link

17A. Where a person had been entitled to invalidity benefit in a period of interruption of employment occurring in whole or in part in a period not exceeding 57 days immediately before the appointed day and becomes entitled to an award of incapacity benefit on the basis that a day of incapacity for work on or after the appointed day forms part of a period of incapacity for work

beginning before the appointed day, that award shall have effect as if it were an award of long-term incapacity benefit.]

Textual Amendments

- F2** Reg. 17A inserted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(3)**

[^{F3}Calculating periods of incapacity for work for welfare to work beneficiaries in long-term incapacity benefit transitional cases

17B. For the purposes of transitional cases, where a person, to whom regulation 17(1) (transitional awards of long-term incapacity benefit) or regulation 17A (awards of incapacity benefit in cases where periods of interruption of employment and periods of incapacity for work link) applies, has been determined in accordance with regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995 to have become a welfare to work beneficiary, section 30C(1) (c) of the 1992 Act (any two periods of incapacity for work not separated by a period of more than 8 weeks shall be treated as one period of incapacity for work) shall have effect as if for the reference to 8 weeks there were substituted a reference to [^{F4}104 weeks].]

Textual Amendments

- F3** Reg. 17B inserted (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **3(2)**
- F4** Words in [reg. 17B](#) substituted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **11(2)**

Rate of long-term incapacity benefit in transitional cases

18.—(1) Subject to paragraph (7), in transitional cases, the weekly rate of long-term incapacity benefit shall consist of—

- (a) a basic rate of an amount equal to the rate of long-term incapacity benefit specified in Schedule 4, Part I, paragraph 2A, of the 1992 Act^{M2};
 - (b) where an additional pension was paid or payable with invalidity benefit immediately before the appointed day, an additional rate of an amount equal to the rate paid or payable as an additional pension with invalidity benefit immediately before the appointed day; and that amount shall be referred to as the additional rate;
 - (c) where an invalidity allowance was payable [^{F5}pursuant to subsection (3) of section 34] of the 1992 Act immediately before the appointed day, an amount equal to the appropriate rate specified in paragraph (2); and that amount shall be referred to as a transitional invalidity allowance.
- (2) The appropriate rate referred to in paragraph (1)(c) is—
- (a) where the higher rate of invalidity allowance was payable immediately before the appointed day, [^{F6}£26.60]
 - (b) where the middle rate of invalidity allowance was payable immediately before the appointed day, [^{F7}£17.10]
 - (c) where the lower rate of invalidity allowance was payable immediately before the appointed day, [^{F8}£8.55]

(3) The transitional invalidity allowance shall be up-rated in accordance with the provisions of Part X of the Administration Act (review and alteration) as if that allowance were a sum specified in section 150(1)(a)(i), (2)(a) and (3)(a) of that Act.

(4) In a transitional case, where for any period a person is entitled to an award of long-term incapacity benefit which includes the additional rate and a transitional invalidity allowance, for that period the relevant amount shall be deducted from the appropriate weekly rate of the transitional invalidity allowance ^{F9}....

(5) In paragraph (4) “the relevant amount” means an amount equal to the additional rate reduced by the amount of any reduction in the weekly rate of incapacity benefit made by virtue of regulation 22.

(6) Where the rate of long-term incapacity benefit includes a transitional invalidity allowance no increase shall become payable by virtue of regulations made under section 30B(7) of the 1992 Act^{M3}.

(7) In a transitional case where a person attained pensionable age before the appointed day and is not more than 5 years over that age, he shall continue to be entitled to long-term incapacity benefit until he reaches 5 years over pensionable age [^{F10}or until the first day on which he is entitled to retirement pension, whichever date is the earlier.] payable at the rate at which the basic pension referred to in section 44(4) of the 1992 Act ^{M4} is payable.

(8) In determining the rate of long-term incapacity benefit in a transitional case where paragraph (7) applies, any increase of the following descriptions shall be disregarded—

- (a) if he is also entitled to a transitional invalidity allowance under paragraph (1)(c), any increase under section 47(1) or 50(2) of the 1992 Act^{M5};
- (b) any increase (for married women) under section 53(2) of, or (for deferred retirement) under Schedule 5 to, the 1992 Act;
- (c) any increase (for dependants) under section 80, 83 or 85 of the 1992 Act; and
- (d) any increase (for Category A or Category B pensioners) under section 150 of the Administration Act (annual up-rating) of the sums mentioned in subsection (1)(e) of that section.

[^{F11}(9) For the purposes of Part IV a “transitional case” means a case where a person is entitled to an award of long-term incapacity benefit by virtue of regulation 17 or 17A.]

Textual Amendments

- F5** Words in reg. 18(1)(c) substituted (6.1.1997) by [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#), regs. 1(1), **3(4)(a)**
- F6** Sum in [Reg. 18\(2\)\(a\)](#) substituted (coming into force in accordance with art. 1(4) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(h), **18(1)(a)** (with art. 18(2))
- F7** Sum in [Reg. 18\(2\)\(b\)](#) substituted (coming into force in accordance with art. 1(4) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(h), **18(1)(b)** (with art. 18(2))
- F8** Sum in [Reg. 18\(2\)\(c\)](#) substituted (coming into force in accordance with art. 1(4) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(h), **18(1)(c)** (with art. 18(2))
- F9** Word in reg. 18(4) omitted (6.1.1997) by virtue of [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#), regs. 1(1), **3(4)(b)**
- F10** Words in reg. 18(7) inserted (6.1.1997) by [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#), regs. 1(1), **3(4)(c)**

F11 Reg. 18(9) substituted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(4)**

Marginal Citations

- M2** Paragraph 2A in Part I of Schedule 4 was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(2) of the Social Security (Incapacity for Work) Act 1994.
- M3** Section 30B(7) was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(1) of the Social Security (Incapacity for Work) Act 1994.
- M4** Section 44(4) of the Social Security Contributions and Benefits Act 1992 was amended by section 11 of, and Schedule 1, paragraph 11 to, the Social Security (Incapacity for Work) Act 1994.
- M5** Section 47 of the Social Security Contributions and Benefits Act 1992 was amended by section 11 of, and paragraph 13 of Schedule 1 to, the Social Security (Incapacity for Work) Act 1994.

Special provisions for persons entitled to long-term incapacity benefit on termination of a period of entitlement to disability working allowance

19.—(1) Where a person who was entitled to a transitional award of long-term incapacity benefit becomes entitled to incapacity benefit by virtue of section 30C(5) of the 1992 Act ^{M6} and the rate of that benefit is less than the rate at which the transitional award of long-term incapacity benefit would have been payable had he not ceased to be entitled to that award, incapacity benefit shall be payable at the latter rate until—

- (a) in the case where the transitional award included an increase under regulation 24(1), the conditions in regulation 24(3) or any of the provisions referred to in regulation 25(2) are no longer satisfied;
 - (b) in any other case, the rate of long-term incapacity benefit under section 30B of the 1992 Act ^{M7} together with any increase under section 86A of that Act (increase for adult dependants) ^{M8} equals or exceeds that rate.
- (2) Where a person—
- (a) who was entitled to disability working allowance by virtue of section 129 of the 1992 Act before the appointed day or to disability working allowance at any time in a period of not more than 56 days beginning on or after the appointed day, becomes entitled to incapacity benefit; and
 - (b) would have become entitled to invalidity benefit by virtue of section 33(7) or section 42 of the 1992 Act had the 1994 Act not come into force; and
 - (c) the rate of incapacity benefit is less than the rate at which a transitional award of long-term incapacity benefit would have been payable had the days of entitlement to invalidity benefit in the period of interruption of employment which arose immediately before the period of entitlement to disability working allowance been days of entitlement to invalidity benefit in a period of interruption of employment running at the appointed day,

incapacity benefit shall be payable at the latter rate until, in the case where the transitional award would have included an increase under regulation 24(1), the conditions in regulation 24(3) or in any of the provisions referred to in regulation 25(2) are no longer satisfied, and in any other case, the rate of long-term incapacity benefit under section 30B of the 1992 Act together with any increase under section 86A of that Act equals or exceeds that rate.

(3) For the purposes of paragraph (2), the days of entitlement to disability working allowance referred to in that paragraph shall be treated as days of incapacity for work.

Marginal Citations

- M6** Section 30C(5) was inserted into the Social Security Contributions and Benefits Act 1992 by section 3(1) of the Social Security (Incapacity for Work) Act 1994.
- M7** Section 30B was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(1) of the Social Security (Incapacity for Work) Act 1994.
- M8** Section 86A was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(5) of the Social Security (Incapacity for Work) Act 1994.

Special provisions for persons entitled to long-term incapacity benefit on termination of a period engaged in training for work

20.—(1) Where a person who was entitled to a transitional award of long-term incapacity benefit becomes entitled to long-term incapacity benefit by virtue of section 30C(6) of the 1992 Act ^{M9} and the rate of that benefit is less than the rate at which the transitional award of long-term incapacity benefit would have been payable had he not ceased to be entitled to that award, incapacity benefit shall be payable at the latter rate until—

- (a) in the case where the transitional award included an increase under regulation 24(1), the conditions in regulation 24(3) or any of the provisions referred to in regulation 25(2) are no longer satisfied;
 - (b) in any other case, the rate of long-term incapacity benefit under section 30B of the 1992 Act ^{M10} together with any increase under section 86A of that Act (increase for adult dependants) ^{M11} equals or exceeds that rate.
- (2) Where a person—
- (a) at any time in a period of not more than 57 days immediately before the appointed day or at any time in a period of not more than 57 days immediately after the appointed day attends a training course of the type specified in regulation 7(1)(f) of the Unemployment, Sickness and Invalidity Benefit Regulations (days when a person is attending a training course not to be treated as days of incapacity for work) ^{M12}; and
 - (b) had been entitled to invalidity benefit in a period of interruption of employment [^{F12}occurring in whole or in part in a period] not exceeding 57 days prior to the first day of attendance on the training course; and
 - (c) within a period not exceeding 57 days beginning on the day after the last day of attendance on the training course becomes entitled to incapacity benefit by virtue of sections 30A, 40 or 41 of the 1992 Act ^{M13}; and
 - (d) the rate of incapacity benefit is less than the rate at which a transitional award of long-term incapacity benefit would have been payable had the period of entitlement to invalidity benefit referred to in sub-paragraph (b) been running at the appointed day,

incapacity benefit shall be payable at the latter rate until, in the case where the transitional award would have included an increase under regulation 24(1), the conditions in regulation 24(3) or in any of the provisions referred to in regulation 25(2) are no longer satisfied, and in any other case, the rate of incapacity benefit under section 30B of the 1992 Act together with any increase under section 86A of that Act equals or exceeds that rate.

(3) For the purpose of paragraph (2), the days referred to as days of attendance on a training course in that paragraph shall be treated as days of incapacity for work.

Textual Amendments

- F12** Words in reg. 20(2)(b) substituted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(5)**

Marginal Citations

- M9** Section 30C(6) was inserted into the Social Security Contributions and Benefits Act 1992 by section 3(1) of the Social Security (Incapacity for Work) Act 1994.
- M10** Section 30B was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(1) of the Social Security (Incapacity for Work) Act 1994.
- M11** Section 86A was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(5) of the Social Security (Incapacity for Work) Act 1994.
- M12** [S.I. 1983/1598](#); regulation 7(1)(f) was amended by the [Employment Act 1989 \(c.38\)](#), [Schedule 5 paragraphs 1](#) and 4 and [S.I. 1991/387](#).
- M13** Section 30A was inserted into the Social Security Contributions and Benefits Act 1992 by section 1(1) of the Social Security (Incapacity for Work) Act 1994. Sections 40 and 41 of the Social Security Contributions and Benefits Act 1992 was amended by section 11 of, paragraphs 8 and 9 of Schedule 1 to, the Social Security (Incapacity for Work) Act 1994.

Special provisions for persons entitled to long-term incapacity benefit in respect of an industrial injury

21.—(1) Subject to paragraph (2), a person entitled to a transitional award of long-term incapacity benefit in respect of a personal injury of a kind mentioned in section 94(1) of the 1992 Act shall cease to be so entitled when the incapacity for work is no longer as a result of that injury.

(2) Where a person's entitlement to a transitional award of long-term incapacity benefit ceases as a consequence of paragraph (1) and no more than 57 days after entitlement to that award ceases he becomes incapable for work as a result of the same personal injury in respect of which the transitional award of long-term incapacity benefit was payable, he shall be entitled to benefit at the rate at which the transitional award of long-term incapacity benefit would have been payable had he not ceased to be so entitled; and these Regulations shall apply as if the award of incapacity benefit were a transitional award of long-term incapacity benefit.

Effect of entitlement to guaranteed minimum pensions on payment of the additional rate element in a transitional case of long-term incapacity benefit

22.—(1) Where a person who is a transitional case is entitled to both—

- (a) an award of long-term incapacity benefit which includes the additional rate; and
- (b) to one or more guaranteed minimum pensions, and had been entitled to an invalidity pension under section 41 of the 1992 Act immediately before the appointed day, the weekly rate of the award of long-term incapacity benefit shall be reduced by an amount equal—
 - (i) to the additional rate; or
 - (ii) to the weekly rate of the pension mentioned in paragraph (b) or if there is more than one such ^{F13}guaranteed minimum pension], their aggregate weekly rates, whichever is less.

(2) Where a person is entitled to an award of long-term incapacity benefit which includes the additional rate and the transitional invalidity allowance, the weekly rate of that award shall be reduced by the relevant amount being deducted from the weekly rate of the transitional invalidity

allowance and he shall be entitled to that allowance only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.

- (3) Where for any period a person is entitled to—
- (a) an award of long-term incapacity benefit which does not include the additional rate; and
 - (b) one or more guaranteed minimum pensions,

the weekly rate of the award of long-term incapacity benefit shall be reduced by deducting the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions from the weekly rate of the transitional invalidity allowance and a person shall be entitled to that allowance only if there is a balance after deduction and, if there is a balance, at a weekly rate equal to it.

- (4) Where for any period a person is entitled to—
- (a) an award of long-term incapacity benefit which includes the additional rate but does not include the transitional invalidity allowance; and
 - (b) one or more guaranteed minimum pensions; and
 - (c) an increase of unemployability supplement under section 106 and paragraph 3 of Schedule 7 to the 1992 Act,

the relevant amount shall be deducted from the amount of the increase of unemployability supplement specified in Schedule 4, Part V, paragraph 6 to the 1992 Act, and a person shall be entitled to an increase only if there is a balance after that deduction and, if there is a balance, only an amount equal to it.

- (5) Where for any period a person who is a transitional case is entitled to—
- (a) an award of long-term incapacity benefit which does not include the additional rate; and
 - (b) one or more guaranteed minimum pensions; and
 - (c) an increase of unemployability supplement under section 106 and paragraph 3 of Schedule 7 to the 1992 Act,

the increase of the unemployability supplement shall be reduced by the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions and a person shall be entitled to an increase only if there is a balance after that deduction and, if there is a balance, only an amount equal to it.

(6) In this regulation “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions and the additional rate reduced by—

- (a) the additional rate; or
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension,

whichever is the less.

Textual Amendments

- F13** Words in reg. 22(1)(b)(ii) substituted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(6)**

Increase of Category A retirement pension for incapacity

23.—^{F14}(1) Where a person has been entitled to invalidity allowance or transitional invalidity allowance at any time during a period of 57 days before attaining pensionable age, sections 47 and 61 of the 1992 Act shall continue to have effect as though section 11 of, and paragraph 13 of Schedule 1 to, the 1994 Act had not come into force and as though any reference to invalidity allowance in section 47 were a reference to transitional invalidity allowance or invalidity allowance.

[^{F15}(2) In the case of a person who is a welfare to work beneficiary in accordance with regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995, the reference in paragraph (1) to a period of 57 days shall be treated as a reference to a period of [^{F16}104 weeks].]

Textual Amendments

- F14** Reg. 23(1); reg. 23 renumbered as reg. 23(1) (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **3(3)**
- F15** Reg. 23(2) inserted (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **3(3)**
- F16** Words in reg. 23(2) substituted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **11(3)**

Increase of rate of long-term incapacity benefit for dependants in transitional cases

24.—(1) Subject to paragraphs (3), (4) and (5) and regulation 25, in a transitional case where at any time during a period of 56 days immediately before the appointed day—

- (a) an increase in the rate of invalidity benefit was paid by way of a concessionary payment to compensate for non-payment of an increase for a spouse who was an adult dependant under Part IV of the 1992 Act; or
- (b) an increase in the rate of invalidity benefit was payable for a spouse who was an adult dependant under Part IV of the 1992 Act,

an amount equal to that increase shall be payable.

(2) Where, as a consequence of a review under section 150 of the Administration Act in the tax year 1994–1995, the amounts specified in column (3) of paragraph 2 of Part IV of Schedule 4 to the 1992 Act ^{M14} are increased, the increase payable under paragraph (1) shall likewise be increased by an equal amount; and thereafter an increase payable under paragraph (1) shall be an amount equal to the appropriate amount specified in column (3) of paragraph 2 of Part IV of Schedule 4 to the 1992 Act.

(3) Except as provided for in regulation 25, an increase under paragraph (1) shall continue to be payable where—

- (a) the spouse is residing with the beneficiary; or
- (b) the beneficiary is contributing to the maintenance of his spouse at the weekly rate equal to or greater than the rate of the increase.

(4) Subject to regulations 25 and 26 and paragraph (5), the provisions in Part I (general) and Part III (adults), save for regulation 9(1)(a) and (b) of that Part, of the Increases for Dependants Regulations shall apply to the increase as if it were an increase under section 86A of the 1992 Act ^{M15}.

(5) Where an increase under paragraph (1) is paid or payable to a person over pensionable age, the provisions in regulation 13 of the Increases for Dependants Regulations (increase of short-term incapacity benefit for persons over pension age) shall apply to the increase of long-term incapacity benefit as if that increase were an increase of short-term incapacity benefit.

(6) Where a person becomes entitled to an increase under paragraph (1), he shall not be entitled to an adult dependency increase to which he would, but for this provision, be entitled under the Increases for Dependants Regulations.

(7) [^{F17}Except in a case where paragraph (7A) applies, a person] shall cease to be entitled to an increase under paragraph (1) when either—

- (a) no invalidity benefit or long-term incapacity benefit has been paid for at least 57 continuous days;
- (b) no increase of invalidity benefit or long-term incapacity benefit is paid or payable for at least 57 continuous days in a period of incapacity for work.

[^{F18}(7A) The exception referred to in paragraph (7) applies only if the person—

- (a) has been determined to be a welfare to work beneficiary in accordance with regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995; and
- (b) is not entitled to incapacity benefit on any day in a period falling within a linking term within the meaning of regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995.]

(8) In calculating the period referred to in paragraph (7), the days of entitlement to disability working allowance or the days of attendance on a training course of a type referred to in section 30C(6) of the 1992 Act ^{M16} and regulation 19(2) shall not be taken into account.

Textual Amendments

F17 Words in [reg. 24\(7\)](#) substituted (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), [regs. 1, 3\(4\)\(a\)](#)

F18 [Reg. 24\(7A\)](#) inserted (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), [regs. 1, 3\(4\)\(b\)](#)

Marginal Citations

M14 Paragraph 2 of Part IV of Schedule 4 to the Social Security Contributions and Benefits Act 1992 was amended by section 2(6) of the Social Security (Incapacity for Work) Act 1994.

M15 Section 86A was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(5) of the Social Security (Incapacity for Work) Act 1994.

M16 Section 30C(6) was inserted into the Social Security Contributions and Benefits Act 1992 by section 3(1) of the Social Security (Incapacity for Work) Act 1994.

Further provisions for dependants in respect of the application of old saving provisions

25.—(1) In relation to transitional cases where the rate of incapacity benefit falls to be calculated by reference to the rate of dependency allowance paid or payable before the appointed day, the old saving provisions referred to in paragraph (2) shall continue to have effect subject to the following provisions of this regulation.

(2) The old saving provisions referred to in paragraph (1) are—

- (a) regulation 15 of the Social Security Benefit (Dependency) Regulations 1977 ^{M17};
- (b) regulation 2 of the Social Security (Savings for Existing Beneficiaries) Regulations 1984 ^{M18};
- (c) regulation 3 of the Social Security [^{F19}Benefit] (Dependency) Amendment Regulations 1984 ^{M19};
- (d) regulation 3 of the Social Security [^{F19}Benefit] (Dependency) Amendment Regulations 1985 ^{M20};
- (e) regulation 4 of the Social Security Benefit (Dependency and Computation of Earnings) Amendment Regulations 1989 ^{M21};
- (f) regulation 4 of the Social Security [^{F19}Benefit] (Dependency) Amendment Regulations 1992 ^{M22}; and

- (g) any administrative provision which before the appointed day enabled a concessionary payment to be made to compensate for non-payment of an increase under Part IV of the 1992 Act as a consequence of any one of the regulations referred to in sub-paragraphs (a) to (f) ceasing to apply to an increase due to attendance on a training course.
- (3) ^{F20}Except in a case where paragraph (3A) applies, the old saving provisions] referred to in paragraph (2) shall cease to have effect when—
- (a) no invalidity benefit or long-term incapacity benefit has been paid for at least 57 continuous days; or
 - (b) no increase is paid for a dependant for a continuous period of at least 57 days in a period of incapacity for work; or
 - (c) in a case where regulation 4 of the Social Security^{F21}Benefit] (Dependency) Amendment Regulations 1992 applies, when the increase is not adjusted as a result of earnings for a continuous period of at least 57 days; or
 - (d) in a case where a concessionary payment was made to compensate for non-payment of an increase under Part IV of the 1992 Act as a consequence of regulation 4 of the Social Security^{F21}Benefit] (Dependency) Amendment Regulations 1992 ceasing to apply due to attendance on a training course, when the increase is not adjusted as a result of earnings for a continuous period of at least 57 days.
- ^{F22}(3A) The exception referred to in paragraph (3) applies only if the person—
- (a) has been determined to be a welfare to work beneficiary in accordance with regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995; and
 - (b) is not entitled to incapacity benefit on any day in a period falling within a linking term within the meaning of regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995.]
- (4) Regulation 4 of the Social Security^{F23}Benefit] (Dependency) Amendment Regulations 1992 shall not apply in any week to a case where a dependant has earnings which exceed £81.50 per week.
- (5) Where an increase is payable as a consequence of a concessionary payment made to compensate for non-payment of an increase under Part IV of the 1992 Act as a consequence of regulation 4 of the Social Security^{F23}Benefit] (Dependency) Amendment Regulations 1992 ceasing to apply due to attendance on a training course, no payment shall be made in any week where a dependant has earnings which exceed £81.50 per week.

Textual Amendments

- F19** Word in reg. 25(2)(c)(d)(f) inserted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(7)**
- F20** Words in reg. 25(3) substituted (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **3(5)(a)**
- F21** Word in reg. 25(3)(c)(d) inserted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(7)**
- F22** Reg. 25(3A) inserted (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **3(5)(b)**
- F23** Word in reg. 25(4)(5) inserted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(7)**

Marginal Citations

- M17** [S.I. 1977/343](#).
- M18** [S.I. 1984/1696](#).

M19 S.I. 1984/1698.

M20 S.I. 1985/1190.

M21 S.I. 1989/1690.

M22 S.I. 1992/3041.

Transitional provision for the treatment of earnings in respect of increases of long-term incapacity benefit for dependants.

- (a) (a) on or after the appointed day—
 - (i) no increase or a reduced amount of the rate of increase of long-term incapacity benefit is payable for an adult dependant as a consequence of regulation 5 (attribution of earnings) or regulation 10 (earnings rules for increases for adult dependants) of the Increases for Dependants Regulations; or
 - (ii) no increase of long-term incapacity benefit is payable for a child dependant as a consequence of section 80(3) and (4) of the 1992 Act and regulation 5 (attribution of earnings) of the Increases for Dependants Regulations; and
- (b) in a case where the increase for an adult dependant is reduced, the amount of reduction would have been less had the 1994 Act and regulations 5 and 10 of the Increases for Dependants Regulations not come into force; and
- (c) the earnings which caused there to be no payment of an increase or a reduction of an increase in paragraph (a) had already resulted in no payment of or a reduced payment of an increase before the appointed day,

a payment of an increase shall be made as if the provisions in the 1992 Act in force immediately before the appointed day continued to have effect in respect of those earnings and the 1994 Act had not been enacted and regulations 5 and 10 of the Increases for Dependants Regulations had not come into force.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Incapacity Benefit) (Transitional) Regulations 1995, PART IV.